

of this 1979 amendatory act may continue piloting and hold licenses until May 1, 1982.

Passed the Senate April 27, 1979.

Passed the House May 14, 1979.

Approved by the Governor May 25, 1979.

Filed in Office of Secretary of State May 25, 1979.

CHAPTER 208

[Substitute Senate Bill No. 2967]

STATE TRUST LANDS—FOREST FIRE PROTECTION—GENERAL FUND FUNDING

AN ACT Relating to the operating budget; creating a new section; and declaring an emergency.

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

NEW SECTION. Section 1. For the 1977–1979 biennium, forest fire protection on trust lands was fully funded from the forest development account and the resource management cost account. The purpose of this section is to fund forest fire protection on such trust lands from the general fund.

\$435,000 is hereby transferred from the general fund to the forest development account, and \$1,353,000 is hereby transferred from the general fund to the resource management cost account.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate April 25, 1979.

Passed the House May 17, 1979.

Approved by the Governor May 25, 1979.

Filed in Office of Secretary of State May 25, 1979.

CHAPTER 209

[Substitute Senate Bill No. 2181]

INHERITANCE TAXES

AN ACT Relating to inheritance; amending section 2, chapter 292, Laws of 1961 and RCW 83.04.010; amending section 3, chapter 292, Laws of 1961 and RCW 83.04.013; amending section 1, chapter 73, Laws of 1972 ex. sess. and RCW 83.24.035; amending section 83.04.030, chapter 15, Laws of 1961 as amended by section 9, chapter 292, Laws of 1961 and RCW 83.04.030; amending section 83.04.080, chapter 15, Laws of 1961 and RCW 83.04.080; amending section 83.05.020, chapter 15, Laws of 1961 and RCW 83.05.020; amending section 83.08.050, chapter 15, Laws of 1961 and RCW 83.08.050; amending section 83.16.020, chapter 15, Laws of 1961 as amended by section 108, chapter 278, Laws of 1975 1st ex. sess. and RCW 83.16.020; amending section 83.16.080, chapter 15,

Laws of 1961 as last amended by section 14, chapter 107, Laws of 1979 and RCW 83.16.080; amending section 11.08.210, chapter 145, Laws of 1965 as amended by section 5, chapter 278, Laws of 1975 1st ex. sess. and RCW 11.08.210; amending section 83.05.050, chapter 15, Laws of 1961 as amended by section 101, chapter 278, Laws of 1975 1st ex. sess. and RCW 83.05.050; amending section 83.44.080, chapter 15, Laws of 1961 as amended by section 1, chapter 73, Laws of 1969 and RCW 83.44.080; amending section 83.44.010, chapter 15, Laws of 1961 as last amended by section 1, chapter 132, Laws of 1971 ex. sess. and RCW 83.44.010; amending section 83.16.010, chapter 15, Laws of 1961 and RCW 83.16.010; amending section 83.40.040, chapter 15, Laws of 1961 as amended by section 12, chapter 28, Laws of 1963 ex. sess. and RCW 83.40.040; amending section 83.20.010, chapter 15, Laws of 1961 and RCW 83.20.010; amending section 19, chapter 292, Laws of 1961 and RCW 83.40.010; amending section 2, chapter 148, Laws of 1973 and RCW 11.86.010; amending section 3, chapter 148, Laws of 1973 and RCW 11.86.020; amending section 4, chapter 148, Laws of 1973 and RCW 11.86.030; amending section 5, chapter 148, Laws of 1973 and RCW 11.86.040; amending section 6, chapter 148, Laws of 1973 and RCW 11.86.050; amending section 7, chapter 148, Laws of 1973 and RCW 11.86.060; amending section 8, chapter 148, Laws of 1973 and RCW 11.86.070; amending section 48, chapter 26, Laws of 1967 ex. sess. as amended by section 3, chapter 158, Laws of 1975 1st ex. sess. and RCW 82.03.190; adding a new section to chapter 11.08 RCW; adding a new section to chapter 11.86 RCW; adding new sections to chapter 83.04 RCW; adding new sections to chapter 83.16 RCW; adding new sections to chapter 83.08 RCW; adding a new section to chapter 83.20 RCW; adding a new section to chapter 83.24 RCW; adding a new section to chapter 83.44 RCW; creating new sections; repealing section 83.04.050, chapter 15, Laws of 1961 and RCW 83.04.050; repealing section 83.08.020, chapter 15, Laws of 1961 and RCW 83.08.020; repealing section 83.08.030, chapter 15, Laws of 1961 and RCW 83.08.030; repealing section 83.08.040, chapter 15, Laws of 1961 and RCW 83.08.040; repealing section 1, chapter 11, Laws of 1963 ex. sess. and RCW 83.20.020; repealing section 1, chapter 8, Laws of 1965 ex. sess., section 6, chapter 149, Laws of 1973 1st ex. sess., section 1, chapter 221, Laws of 1973 1st ex. sess. and RCW 83.20.030; repealing section 2, chapter 221, Laws of 1973 1st ex. sess. and RCW 83.20.040; repealing section 83.44.020, chapter 15, Laws of 1961 and RCW 83.44.020; and declaring an emergency.

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

Section 1. Section 2, chapter 292, Laws of 1961 and RCW 83.04.010 are each amended to read as follows:

All property within the jurisdiction of this state, and any interest therein, whether belonging to ~~((the inhabitants of))~~ a person domiciled in this state or not, and whether tangible or intangible, which shall pass

(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 RCW measured

by the full value of the entire property after deduction of the amounts allowable under RCW 83.04.013.

Sec. 2. Section 3, chapter 292, Laws of 1961 and RCW 83.04.013 are each amended to read as follows:

~~((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 appraisal 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.))~~ The following shall be allowed as deductions from the gross value of the property passing:

(1) All debts owing by decedent at the date of death: PROVIDED, That debts founded upon a promise or agreement shall be allowable only to the extent that they were contracted, bona fide, and for full and adequate consideration in money or money's worth;

(2) All unpaid local and state taxes assessed on decedent's property and payable before or during the calendar year of decedent's death;

(3) Reasonable costs of funeral, burial, and monument or crypt;

(4) Court costs and reasonable fees of the personal representative and his attorneys, accountants, and appraisers incurred in administering decedent's estate; and

(5) Reasonable fees of trustees, attorneys, accountants, and appraisers incurred in determining the amount of state and federal death taxes payable by reason of decedent's death.

Sec. 3. Section 1, chapter 73, Laws of 1972 ex. sess. and RCW 83.24.035 are each amended to read as follows:

~~((There shall be allowable as deductions from the gross value of the entire property of the estate in determining the amount of tax without administration as provided for in RCW 83.24.010, the local and state taxes due from the decedent prior to his death; a reasonable sum for funeral expenses, monument or crypt; the cost of appraisal made for purposes of determining the inheritance tax, the amount of said deduction as to each appraisal not to exceed one-tenth of one percent of the gross value of the assets appraised; reasonable attorney's fees, and all debts owing by the decedent at the time of his death; and no other sum, but said debts shall not be deducted unless at the time of decedent's death the amount was justly due, that no payments had been made thereon, and that there were no offsets to the same.))~~ The following shall be allowed as deductions from the gross value of the property passing:

(1) All debts owing by decedent at the date of death: PROVIDED, That debts founded upon a promise or agreement shall be allowable only to the

extent that they were contracted, bona fide, and for full and adequate consideration in money or money's worth;

(2) All unpaid local and state taxes assessed on decedent's property and payable before or during the calendar year of decedent's death;

(3) Reasonable costs of funeral, burial, and monument or crypt;

(4) Reasonable fees of trustees, attorneys, accountants, and appraisers incurred in determining the amount of state and federal death taxes payable by reason of decedent's death.

Sec. 4. Section 83.04.030, chapter 15, Laws of 1961 as amended by section 9, chapter 292, Laws of 1961 and RCW 83.04.030 are each amended to read as follows:

Except as to the limitations and exemptions prescribed for each class by chapter 83.08 RCW (~~and~~), except as to real property located outside the state passing in fee from the decedent owner, and except as to tangible personal property permanently located (having situs) outside of this state, the tax imposed under chapter 83.08 RCW 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.

NEW SECTION. Sec. 5. There is added to chapter 83.04 RCW a new section to read as follows:

(1) Except as provided in subsection (2) of this section, the measure of the tax imposed under chapter 83.08 RCW shall include the value of all property to the extent of any interest therein of which the decedent has at any time made a transfer, by trust or otherwise, during the three year period ending on the date of the decedent's death.

(2) Subsection (1) of this section shall not apply to: (a) Any bona fide sale for an adequate and full consideration in money or money's worth, and (b) any gift to a donee made during a calendar year if the decedent was not required by RCW ... (section 8, chapter ... (SB 2182), Laws of 1979) to file any gift tax return for the year with respect to gifts to the donee.

(3) The measure of the tax imposed under chapter 83.08 RCW (determined without regard to this subsection) shall be increased by the amount of any federal and Washington state gift taxes paid by the decedent or his estate on any gift made by the decedent or his spouse after the effective date of this act and during the three-year period ending on the date of the decedent's death.

Sec. 6. Section 83.04.080, chapter 15, Laws of 1961 and RCW 83.04-.080 are each amended to read as follows:

Whenever any person (~~(or corporation)~~) shall exercise or terminate a power of appointment derived from any disposition of property, made (~~(either before or after March 21, 1931, such)~~) before June 7, 1951, the appointment when ((made)) exercised or terminated shall be deemed a transfer taxable under the provisions of the inheritance tax laws of the state of Washington in the same manner as though the property to which such appointment relates belonged absolutely to the donee of such power and had been bequeathed or devised by such donee by will, except that where the donor was a resident and the donee, at the time the appointment takes effect, is a nonresident, the property to which the appointment relates shall be taxable as having been transferred in the estate of the donor.

Sec. 7. Section 83.05.020, chapter 15, Laws of 1961 and RCW 83.05.020 are each amended to read as follows:

The granting of a power of appointment, in conjunction with a disposition of property which is effected (~~(before)~~) on or after June 7, 1951, by will, or by deed, grant, sale, contract, or gift made in contemplation of the death of the grantor, or by deed, grant, sale, contract, or gift made or intended to take effect in possession or enjoyment at or after the death of the grantor, to any person in trust or otherwise, or by a transfer in trust or otherwise, under which the grantor 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, is a transfer subject to the inheritance tax laws of this state from the grantor to the ultimate beneficiary thereof.

Sec. 8. Section 83.08.050, chapter 15, Laws of 1961 and RCW 83.08.050 are each amended to read as follows:

Any devise, bequest, legacy, or gift of or beneficial interest (~~(to)~~) in any property or income therefrom passing in trust shall be classified and taxed in accordance with the relationship of the (~~(cestui que trust)~~) transferor to the trust beneficiary.

Sec. 9. Section 83.16.020, chapter 15, Laws of 1961 as amended by section 108, chapter 278, Laws of 1975 1st ex. sess. and RCW 83.16.020 are each amended to read as follows:

~~((When the estate of a deceased person is subject to an inheritance tax, and there is an annuity, life estate, or an estate for a term of years given to one or more persons and the remainder to another or others, the entire estate shall be appraised as other estates are required to be appraised by the laws of this state. The value of the annuity, life or term estate shall be determined in accordance with the rules, methods, and standards of mortality~~

~~and value that are set forth in tables to be furnished by the insurance commissioner of this state upon request of the department of revenue based upon such mortality tables as is from time to time required by law for use by life insurance companies in this state in determining nonforfeiture values under ordinary life insurance policies, except that the rate of interest used in computing the present value of the annuity, life or term estate shall be three and one-half percent per annum, and the value of the remainder interest shall be determined by deducting such computed value from the value of the entire property.))~~ If the property passing includes an annuity, life estate, or a term of years given to one or more beneficiaries and a remainder, reversion, or other future interest given to one or more other beneficiaries, the present value of the interest of each beneficiary shall be determined in accordance with actuarial tables pursuant to sections 2031 and 2512 of the Internal Revenue Code of 1954 for similar purposes. After the values shall have been determined as provided in this section, the tax shall be computed and collected in the same manner that the tax on other estates is computed and collected: **PROVIDED**, That any person owning the beneficial interest in the remainder may defer the payment of the tax thereon until he comes into possession of the same by filing in the office of the county clerk within thirty days after the determination of the tax, a good and sufficient surety company bond to the state, or such other security as is deemed by the department of revenue to be adequate, in a sum equal to the amount of the tax conditioned that he will pay such tax in full within sixty days after coming into possession of the estate. The bond shall not operate to defer payment of the tax unless it is approved by the department of revenue, and if it shall appear to the department at any time that a bond previously filed and approved has become insufficient it may require a new bond to be filed. Interest at the rate of four percent per annum shall accrue against the tax deferred and shall be paid to the department annually. If the person owning the beneficial interest in the remainder shall fail to file a bond within the time herein provided, or if he shall fail to file a new bond when directed by the department, or if he shall fail to pay the interest on the deferred tax within thirty days after notice by the department that the interest payment has not been made when due, the tax and interest shall immediately become due and payable.

Sec. 10. Section 83.16.080, chapter 15, Laws of 1961 as last amended by section 14, chapter 107, Laws of 1979 and RCW 83.16.080 are each amended to read as follows:

~~((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 value of property passing shall include the proceeds of policies of life insurance on the life of the decedent to the extent that:

- (1) The proceeds are receivable as an asset of the decedent's estate;
- (2) The decedent owned an interest in the policies at the time of his death; or
- (3) The decedent possessed at the time of his death any incident of ownership in the policies, exercisable either alone or in conjunction with any other person, other than in a fiduciary capacity under an irrevocable trust created by a person other than the decedent.

The proceeds of policies of life insurance on the life of the decedent receivable by beneficiaries other than the decedent's estate shall be exempt to the extent of sixty thousand dollars. In the event that the proceeds receivable by beneficiaries other than the decedent's estate exceed the amount of the exemption, the benefit of the exemption shall be ratably apportioned among them.

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 of 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))~~ personal representative, the ~~((executor or))~~ personal representative shall recover from such beneficiary the tax due upon such proceeds of such policy or policies. The director 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 director has notified the company that the state is claiming a lien thereon payment shall be deferred until the tax has been paid.

NEW SECTION. Sec. 11. There is added to chapter 83.08 RCW a new section to read as follows:

As used in this title:

(1) "Class A beneficiary" means a person who is:

(a) Decedent's lineal ancestor;

(b) Decedent's lineal descendant including stepchildren and their lineal descendants and adopted persons and their lineal descendants if, in the case of adopted persons, the decree of adoption was either (i) entered before the effective date of this act or before the eighteenth birthday of the adopted person or (ii) entered more than five years before the death of the decedent if the decree of adoption was entered on or after the eighteenth birthday of the adopted person;

(c) Decedent's spouse; or

(d) A spouse of a lineal descendant of the decedent.

(2) "Class B beneficiary" means a person who is decedent's brother or sister, or a lineal descendant of decedent's brother or sister.

(3) "Class C beneficiary" means a person, corporation, or body politic who or which is neither a class A beneficiary nor a class B beneficiary nor an entity exempt from inheritance tax.

NEW SECTION. Sec. 12. There is added to chapter 83.08 RCW a new section to read as follows:

(1) If the amount passing to class A is:

The tax is the sum of:

(a) Up to and including \$25,000	1%
(b) In excess of \$25,000 up to and including \$50,000	2%
(c) In excess of \$50,000 up to and including \$75,000	3%
(d) In excess of \$75,000 up to and including \$100,000	4%
(e) In excess of \$100,000 up to and including \$200,000	7%
(f) In excess of \$200,000 up to and including \$500,000	9%
(g) In excess of \$500,000	10%

(2) There shall be allowed as exemptions to class A the following amounts:

(a) One hundred thousand dollars of the sum of any amounts passing to the spouse or any minor child of the decedent;

(b) Ten thousand for each living minor child of the decedent;

(c) Ten thousand dollars of any amount passing to any child of the decedent other than a minor child; and

(d) Ten thousand dollars of any amount passing to the descendants of any deceased child, stepchild, or adopted child as a class (per stirpes and not per capita).

(e) As used in this subsection (2), "child" includes a child, stepchild, or adopted child; and "minor child" means a child under the age of twenty-five, or a child eighteen years of age at the time of the parent's death who has been found to be incompetent by judicial determination in this or any state, or who is unable to support himself or herself by reason of physical or mental handicap as determined by the department of revenue.

(3) In addition to the exemptions under subsection (2) of this section, there shall be allowed as an exemption an amount equal to five thousand dollars multiplied by the difference between twenty-one and the age in years of a child of the decedent who is under the age of twenty-one years on the date of decedent's death if:

(a) The decedent does not have a surviving spouse; and

(b) The child, immediately after the death of the decedent, has no known parent.

(4) The exemption under subsection (3) of this section shall not exceed the value of property passing to the child.

(5) The total of the exemptions under this section shall be applied against that portion of the total amount passing to class A which is taxable at the lowest rates, and the allowable exemptions shall not be increased by the amount of any award or allowance granted under chapter 11.52 RCW.

NEW SECTION. Sec. 13. There is added to chapter 83.08 RCW a new section to read as follows:

The amount of the exemptions allowed in section 12(2) of this act shall be as follows for years subsequent to 1979:

For Decedents Dying in:	Spouse and minor child of Decedent Subsection (a)	Child of Decedent Subsections (b) and (c)	Descendants of Deceased Child Subsection (d)
1980	\$100,000	\$10,000	\$10,000
1981	106,000	10,500	10,500
1982	112,000	11,000	11,000
1983	118,000	11,500	11,500
1984	124,000	12,000	12,000
1985 and thereafter	130,000	12,500	12,500

NEW SECTION. Sec. 14. There is added to chapter 83.08 RCW a new section to read as follows:

(1) In addition to the exemptions allowed in this chapter, the following exemption shall apply to community property passing to a surviving spouse in the following manner: For decedents dying in 1981: One-quarter of the value of the community property not attributable to the surviving spouse. For decedents dying in 1982: One-half of the value of the community property not attributable to the surviving spouse. For decedents dying in 1983: Three-fourths of the value of the community property not attributable to the surviving spouse. For decedents dying in or after 1984: The entire amount of the value of the community property not attributable to the surviving spouse.

(2) The total of the exemptions under this section shall be applied against that portion of the total amount passing to class A which is taxable at the lowest rates, and the allowable exemptions shall not be increased by the amount of any award or allowance granted under chapter 11.52 RCW.

NEW SECTION. Sec. 15. There is added to chapter 83.08 RCW a new section to read as follows:

(1) If the amount passing to class B is:	The tax is the sum of:
(a) Up to \$10,000	3%
(b) In excess of \$10,000 up to and including \$20,000	4%
(c) In excess of \$20,000 up to and including \$60,000	7%
(d) In excess of \$60,000 up to and including \$100,000	10%
(e) In excess of \$100,000 up to and including \$200,000	15%
(f) In excess of \$200,000	20%

(2) If no exemption for class A is allowed, ten thousand dollars of any amount passing to class B is exempt, and the exemption shall be applied to that portion of the total amount passing to class B which is taxable at the lowest rates.

NEW SECTION. Sec. 16. There is added to chapter 83.08 RCW a new section to read as follows:

If the amount passing to class C is:	The tax is the sum of:
(1) Up to \$20,000	10%
(2) In excess of \$20,000 up to and including \$50,000	15%
(3) In excess of \$50,000 up to and including \$100,000	20%
(4) In excess of \$100,000	25%

NEW SECTION. Sec. 17. The department of revenue shall review the exemption levels and rate schedules provided for in sections 12 through 16 of this act in relationship to inflationary trends and report its findings and recommendations to the legislature by September 30, 1984.

NEW SECTION. Sec. 18. There is added to chapter 11.08 RCW a new section to read as follows:

All cash received by the personal representative of an escheat estate shall be immediately deposited at interest for the benefit of the estate in a federally insured time or savings deposit or share account, except that the personal representative may maintain an amount not to exceed two hundred fifty dollars in a checking account. This arrangement may be changed by appropriate court order.

Sec. 19. Section 11.08.210, chapter 145, Laws of 1965 as amended by section 5, chapter 278, Laws of 1975 1st ex. sess. and RCW 11.08.210 are each amended to read as follows:

If at the expiration of four months from the date of the first publication of notice to creditors no heirs have appeared and established their claim to the estate, the court may enter an interim order allowing claims, expenses, and partial fees. If at the expiration of ~~((sixteen))~~ ten months from the date of issuance of letters testamentary or of administration no heirs have appeared and established their claim to the estate, all personal property not in the form of cash shall be sold under order of the court. Personal property found by the court to be worthless shall be ordered abandoned. Real property shall not be sold for the satisfaction of liens thereon, or for the payment of the debts of decedent or expenses of administration until the proceeds of the personal property are first exhausted. The court shall then enter a decree allowing any additional fees and charges deemed proper and distributing the balance of the cash on hand, together with any real property, to the state. Remittance of cash on hand shall be made to the department of revenue which shall make proper records thereof and forthwith forward such funds to the state treasurer for deposit in the permanent common school fund of the state.

Sec. 20. Section 83.05.050, chapter 15, Laws of 1961 as amended by section 101, chapter 278, Laws of 1975 1st ex. sess. and RCW 83.05.050 are each amended to read as follows:

Unless the greatest possible tax is paid in full ~~((within thirty days after receipt of the property by the trustee or within thirty days after the death of the grantor, whichever occurs last;))~~ a surety company bond shall be executed in favor of the state of Washington by the trustee and filed with the department of revenue, which bond shall be binding on his successors or representatives, in an amount equal to the greatest possible tax, conditioned that upon the exercise or termination of the power the department will be notified and the final tax paid in full ~~((= PROVIDED, That))~~. The trustee

may elect to pay a tentative tax based on the probabilities of devolution of the property, and file a bond only for the difference between the tentative tax paid and the greatest possible tax. The department of revenue may, for reasonable cause shown, enter into a written agreement with the representatives of the estate, or the donee of the power, to fix the amount of the greatest possible tax in accordance with agreed limitations on the exercise of the power. The payment of the amount agreed upon shall be in full satisfaction of the tax imposed by this chapter, and the amount shall be payable out of the property transferred. The department, in its discretion, may accept other adequate security in lieu of any bond or payment of tentative tax. If at any time the department has cause to believe that the bond or security furnished is inadequate to insure payment of the final tax, it may require such further security from the remaining property as it deems necessary. If the trustee fails or refuses to pay such tax, or furnish a bond or adequate security, the greatest possible tax shall immediately become due and payable, and may be enforced against the property by the department through foreclosure proceedings. Any bond executed by the trustee as above provided shall not be released or exonerated without written consent of the department.

Sec. 21. Section 83.44.080, chapter 15, Laws of 1961 as amended by section 1, chapter 73, Laws of 1969 and RCW 83.44.080 are each amended to read as follows:

Where refunds are allowed in inheritance tax (~~(and escheat)~~) cases, the amount of money received and held by the state treasurer, by way of inheritance tax (~~(or escheat)~~), shall draw interest at the rate of eight percent per annum (~~((from the time of))~~) starting thirty days after the receipt by the state treasurer of said money until the refund (~~((thereof. PROVIDED, That in all inheritance tax cases where securities are deposited with the state treasurer in lieu of a cash payment and thereafter returned to the person or persons so depositing said securities with the state treasurer, the interest and income from said securities received by the state treasurer shall be paid over to said person or persons so depositing said securities))~~) is made. No refund of inheritance taxes shall be allowed unless demand for the refund is made upon the department before or within two years after the issuance of an inheritance tax release.

Sec. 22. Section 83.44.010, chapter 15, Laws of 1961 as last amended by section 1, chapter 132, Laws of 1971 ex. sess. and RCW 83.44.010 are each amended to read as follows:

All taxes imposed by the inheritance tax provisions of this title shall take effect and accrue upon the death of the decedent or donor. On and after September 1, 1971, if such tax is not paid within nine months from the accruing thereof, interest shall be charged and collected at the rate of eight percent per year computed from the expiration of such nine month period unless the amount of tax cannot be determined because of litigation pending

in any court of competent jurisdiction or arbitration under the provisions of chapter 83.14 RCW which involves, either directly or indirectly, the amount of tax payable, in which case interest shall not be charged against the estate nor paid by the state of Washington during the time necessarily consumed by such litigation or arbitration(~~(: PROVIDED, That)~~). In no case shall interest be tolled for a period of more than three years from the expiration of the nine months after date of death. On and after September 1, 1971, the minimum tax due in any event shall be paid within nine months from the accruing thereof. In all cases where a bond shall be given under the provisions of RCW 83.16.020 interest shall be charged at the rate of eight percent per year from and after a period of sixty days from the time that the person or persons owning the beneficial interest come into the possession of same until the payment thereof.

NEW SECTION. Sec. 23. There is added to chapter 83.20 RCW a new section to read as follows:

(1) There shall be exempt from inheritance taxes the value of any annuity or other payment receivable by any person (other than a decedent's estate) by reason of surviving a decedent which is payable under:

(a) Any pension or retirement plan or system established for the benefit of its employees by the United States, by the state of Washington, or by any county, city, or other municipality or political subdivision of the state of Washington; or

(b) Any individual retirement account or any pension, profit-sharing, thrift, stock bonus, or similar trust or any retirement annuity contract established or purchased as part of or pursuant to a qualified benefit plan qualifying for income tax exemption under the Internal Revenue Code of 1954 of the United States.

(2) If the spouse of an employee covered by an account, plan, system, or retirement annuity contract as described in subsection (1) of this section predeceases the employee, any interest of the spouse in the annuity or other payment as may become payable upon the death of the employee shall also be exempt from inheritance taxes.

(3) In order for the retirement benefit to be exempt, the personal representative shall, upon request, provide to the inheritance tax division a certification from the employer, administrator, trustee, or custodian of the benefit plan that it is so qualified.

NEW SECTION. Sec. 24. There is added to chapter 83.44 RCW a new section to read as follows:

(1) For reasonable cause the director may extend the time for payment of any part of the amount of inheritance tax imposed or of any deficiency assessed under Title 83 RCW for a reasonable period not to exceed ten years from the date prescribed by RCW 83.44.010 for payment of the tax.

(2) No extension shall be granted for the payment of any deficiency if the deficiency is due to negligence, fraud with intent to evade the tax, or an intentional disregard of the rules of the department.

(3) If payment of any amount of the tax imposed by Title 83 RCW is extended under this section, interest on the unpaid amount at an annual rate of eight percent shall be paid with each installment payment of the tax.

(4) If any installment under this section is not paid on or before the date fixed for its payment, the remainder of the tax payable in installments, plus interest, shall be paid upon notice and demand from the director.

(5) In the event an extension of time is granted, the director may require the executor to furnish a bond, or such other security as may be deemed reasonable, conditioned upon the payment of the amount deferred in accordance with the terms of the extension.

(6) The director shall adopt rules to carry out this section.

NEW SECTION. Sec. 25. There is added to chapter 83.08 RCW a new section to read as follows:

In case of the good faith compromise of a dispute regarding rights and interests of transferees approved or determined by court order, the tax shall be computed as though the persons receiving distribution were originally entitled thereto as transferees of the property.

NEW SECTION. Sec. 26. (1) If the decedent was at the time of his death a resident of the state and the application of sections 26 through 34 of this act is elected by filing the agreement referred to in section 29 of this act, then, for purposes of this chapter, the value of qualified real property shall be its value for the use under which it qualifies, under section 27 of this act, as qualified real property.

(2) The aggregate decrease in the value of qualified real property taken into account for purposes of this chapter which results from the application of subsection (1) of this section with respect to any decedent shall not exceed five hundred thousand dollars.

NEW SECTION. Sec. 27. (1) For purposes of sections 26 through 34 of this act, the term "qualified real property" means real property located in the state which is acquired 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, 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; 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 subsection (1)(a)(ii) and (c) of this section;

(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; and

(ii) There was material participation by the decedent or a member of the decedent's family in the operation of the farm or other business; and

(d) The real property is designated in the agreement referred to in section 29(2) of this act.

(2) For purposes of sections 26 through 34 of this act, the term "qualified use" means the devotion of the property to any of the following:

(a) Use as a farm for farming purposes; or

(b) Use in a trade or business other than the trade or business of farming.

(3) For purposes of subsection (1) of this section, the term "adjusted value" means:

(a) In the case of the gross estate, the value of the gross estate for purposes of this chapter (determined without regard to sections 26 through 34 of this act), reduced by any unpaid mortgages on or any indebtedness in respect to property where the value of the decedent's interest therein, undiminished by the mortgage or indebtedness, is included in the value of the gross estate; or

(b) In the case of any real or personal property, the value of the property for purposes of this chapter (determined without regard to this section), reduced by any unpaid mortgages on or any indebtedness in respect to property where the value of the decedent's interest therein, undiminished by the mortgage or indebtedness, is included in the value of the gross estate.

(4) For the purposes of this title, "gross estate" means all property subject to the inheritance tax under this title.

NEW SECTION. Sec. 28. (1) If within fifteen years after the decedent's death and before the death of the qualified heir:

(a) The qualified heir disposes of any interest in qualified real property (other than by a disposition to a member of his family); or

(b) The qualified heir ceases to use for the qualified use the qualified real property which was acquired (or passed) from the decedent, then there is hereby imposed an additional inheritance tax.

(2) (a) The amount of the additional tax imposed by subsection (1) of this section with respect to any interest shall be the amount equal to the lesser of:

(i) The adjusted tax difference attributable to the interest; or

(ii) The excess of the amount realized with respect to the interest (or, in any case other than a sale or exchange at arm's length, the fair market value of the interest) over the value of the interest determined under section 26 of this act.

(b) For purposes of subsection (2)(a) of this section, the adjusted tax difference attributable to an interest is the amount which bears the same ratio to the adjusted tax difference with respect to the inheritance (determined under subsection (2)(c) of this section) as:

(i) The excess of the value of the interest for purposes of this chapter (determined without regard to section 26 of this act) over the value of the interest determined under section 26 of this act bears to

(ii) A similar excess determined for all qualified real property.

(c) For purposes of subsection (2)(b) of this section, the term "adjusted tax difference with respect to the inheritance" means the excess of what would have been the inheritance tax liability but for section 26 of this act over the inheritance tax liability. For purposes of this paragraph, the term "inheritance tax liability" means the tax imposed by this title.

(d) For purposes of this paragraph, where the qualified heir disposes of a portion of the interest acquired by (or passing to) the heir (or a predecessor qualified heir) or there is a cessation of use of such a portion:

(i) The value determined under section 26 of this act taken into account under subsection (2)(a)(ii) of this section with respect to the portion shall be its pro rata share of the value of the interest; and

(ii) The adjusted tax difference attributable to the interest taken into account with respect to the transaction involving the second or any succeeding portion shall be reduced by the amount of the tax imposed by this section with respect to all prior transactions involving portions of the interest.

(3) If the date of the disposition or cessation referred to in subsection (1) of this section occurs more than one hundred twenty months and less than one hundred eighty months after the date of the death of the decedent, the amount of the tax imposed by this section shall be reduced (but not below zero) by an amount determined by multiplying the amount of the tax (determined without regard to this subsection) by a fraction:

(a) The numerator of which is the number of full months after the death in excess of one hundred twenty; and

(b) The denominator of which is sixty.

(4) In the case of an interest acquired from (or passing from) any decedent, if subsection (1) of this section applies to any portion of an interest, subsection (1)(a) or (b) of this section, as the case may be, shall not apply with respect to the same portion of the interest.

(5) The additional tax imposed by this section shall become due and payable on the day which is six months after the date of the disposition or cessation referred to in subsection (1) of this section. If the additional tax is

not paid within the time prescribed by this subsection, interest shall accrue at the rate of eight percent per year on the unpaid amount.

(6) The qualified heir shall be personally liable for the additional tax imposed by this section with respect to his interest unless the heir furnishes a bond which meets the requirements of section 30(9) of this act.

(7) For purposes of subsection (1)(b) of this section, real property shall cease to be used for the qualified use if:

(a) The property ceases to be used for the qualified use set forth in section 27(2)(a) or (b) of this act under which the property qualified under section 27 of this act; or

(b) During any period of eight years ending after the date of the decedent's death and before the date of the death of the qualified heir, there had been periods aggregating three years or more during which:

(i) In the case of periods during which the property was held by the decedent, there was no material participation by the decedent or any member of his family in the operation of the farm or other business; and

(ii) In the case of periods during which the property was held by any qualified heir, there was no material participation by the qualified heir or any member of his family in the operation of the farm or other business.

NEW SECTION. Sec. 29. (1) The election under sections 26 through 34 of this act shall be made not later than the time prescribed by RCW 83.44.010 for filing the return of tax imposed by this title (including extensions thereof) and shall be made in such manner as the director shall prescribe by rule.

(2) The election referred to in this section is a written agreement signed by each person in being, or the personal representative of the person, who has an interest (whether or not in possession) in any property designated in the agreement consenting to the application of section 28 of this act with respect to the property.

NEW SECTION. Sec. 30. For purposes of sections 26 through 34 of this act:

(1) The term "qualified heir" means, with respect to any property, a member of the decedent's family who acquired the property (or to whom the property passed) from the decedent. If a qualified heir disposes of any interest in qualified real property to any member of his family, the member shall thereafter be treated as the qualified heir with respect to the interest.

(2) The term "member of the family" means, with respect to any individual, only the individual's ancestor or lineal descendant, a lineal descendant of a grandparent of the individual, the spouse of the individual, or the spouse of such a descendant. For purposes of the preceding sentence, a legally adopted child of an individual shall be treated as a child of the individual by blood.

(3) In the case of real property which meets the requirements of section 27(1)(c) of this act, 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 shall be treated as real property devoted to the qualified use.

(4) The term "farm" includes stock, dairy, poultry, fruit, furbearing animals, 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.

(5) The term "farming purposes" means:

(a) 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;

(b) 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

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

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

(6) Material participation shall be determined in a manner similar to the manner used for purposes of section 1402(a) of the Internal Revenue Code of 1954 (relating to net earnings from self-employment).

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

(a) The property is so considered under RCW 82.04.010 (property subject to inheritance tax);

(b) The property is acquired by any person from decedent's estate in satisfaction of the right of the person to a pecuniary bequest; or

(c) The property is acquired by any person from a trust in satisfaction of a right (which the person has by reason of the death of the decedent) to receive from the trust a specific dollar amount which is the equivalent of a pecuniary bequest.

(8) If the decedent and the surviving spouse at any time held qualified real property as community property, the interest of the surviving spouse in the property shall 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 been obtained under this section if the property had not been community property.

(9) If the qualified heir makes written application to the director for determination of the maximum amount of the additional tax which may be imposed by section 26 of this act with respect to the qualified heir's interest, the director (as soon as possible and in any event within one year after the making of the application) shall notify the heir of the maximum amount. The qualified heir, on furnishing a bond in such amount and for such period

as may be required, shall be discharged from personal liability for any additional tax imposed by section 26 of this act and shall be entitled to a receipt or writing showing the discharge.

NEW SECTION. Sec. 31. (1) (a) Except as provided in subsection (1)(b) of this section the value of a farm for farming purposes shall be determined by dividing:

(i) The excess of the average annual gross cash rental for comparable land used for farming purposes and located in the locality of the farm over the average annual state and local real estate taxes for the comparable land by

(ii) The average annual effective interest rate for all new Federal Land Bank loans.

For purposes of the preceding sentence, each average annual computation shall be made on the basis of the five most recent calendar years ending before the date of the decedent's death.

(b) The formula provided by subsection (1)(a) of this section shall not be used:

(i) Where it is established that there is no comparable land from which the average annual gross cash rental may be determined; or

(ii) Where the election under section 29 of this act specifies that the value of the farm for farming purposes is to be determined under subsection (2) of this section.

(2) In any case to which subsection (1)(a) of this section does not apply, the following factors shall apply in determining the value of any qualified real property:

(a) The capitalization of income which the property can be expected to yield for farming or closely held business purposes over a reasonable period of time under prudent management using traditional cropping patterns for the area, taking into account soil capacity, terrain configuration, and similar factors;

(b) The capitalization of the fair rental value of the land for farmland or closely held business purposes;

(c) Assessed land values in the state;

(d) Comparable sales of other farm or closely held business land in the same geographical area far enough removed from a metropolitan or resort area so that nonagricultural use is not a significant factor in the sales price; and

(e) Any other factor which fairly values the farm or closely held business value of the property.

NEW SECTION. Sec. 32. If qualified real property is disposed of or ceases to be used for a qualified use, then:

(1) The statutory period for the assessment of any additional tax under section 28 of this act attributable to the disposition or cessation shall not

expire before the expiration of three years from the date the director is notified (in such manner as the director may by rule prescribe) of the disposition or cessation; and

(2) The additional tax may be assessed before the expiration of the three-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent the assessment.

NEW SECTION. Sec. 33. (1)(a) If there is an involuntary conversion of an interest in qualified real property and the qualified heir makes an election under this section:

(i) No tax shall be imposed by section 28 of this act on such conversion if the cost of the qualified replacement property equals or exceeds the amount realized on such conversion; or

(ii) If (a)(i) of this subsection does not apply, the amount of the tax imposed by section 28 of this act on such conversion shall be the amount determined under (b) of this subsection.

(b) The amount of the tax with respect to any involuntary conversion is the amount of the tax which (but for this section) would have been imposed on such conversion reduced by an amount which:

(i) Bears the same ratio to such tax, as

(ii) the cost of the qualified replacement property bears to the amount realized on the conversion.

(2) For the purposes of section 28 of this act:

(a) Any qualified replacement property shall be treated in the same manner as if it were a portion of the interest in qualified real property which was involuntarily converted, except that with respect to such qualified replacement property:

(i) The fifteen-year period under section 28(1) of this act shall be extended by any period, beyond the two-year period referred to in subsection (4)(a) of this section during which the qualified heir was allowed to replace the qualified real property; and

(ii) The phaseout period under section 28(3) of this act shall be appropriately adjusted to take into account the extension referred to in (a)(i) of this subsection;

(b) Any tax imposed by section 28 of this act on the involuntary conversion shall be treated as a tax imposed on a partial disposition; and

(c) Section 28(7) of this act shall be applied:

(i) By not taking into account periods after the involuntary conversion and before the acquisition of the qualified replacement property; and

(ii) By treating material participation with respect to the converted property as material participation with respect to the qualified replacement property.

(3) For purposes of this section:

(a) The term "involuntary conversion" means property that (as a result of its destruction in whole or in part, theft, seizure, or requisition or condemnation or threat or imminence thereof) is compulsorily or involuntarily converted:

(i) Into property similar or related in service or use to the property so converted; or

(ii) Into money or into property not similar or related in service or use to the converted property;

(b) The term "qualified replacement property" means:

(i) In the case of an involuntary conversion described in (a)(i) of this subsection, any real property into which the qualified real property is converted; or

(ii) In the case of an involuntary conversion described in (a)(ii) of this subsection, any real property purchased by the qualified heir during the period specified in subsection (4) of this section for purposes of replacing the qualified real property. This term only includes property which is to be used for the qualified use set forth in section 27(2)(a) or (b) of this act under which the qualified real property qualified under section 26 of this act.

(4) The period referred to in subsection (3)(b)(ii) of this section shall be the period beginning with the date of the disposition of the converted property, or the earliest date of the threat or imminence of requisition or condemnation of the converted property, whichever is the earlier, and ending:

(a) Two years after the close of the first taxable year for federal income tax purposes in which any part of the gain upon the conversion is realized; or

(b) Subject to such terms and conditions as may be specified by the director, at the close of such later date as the director may designate on application by the taxpayer. Such application shall be made at such time and in such manner as the director may by rule prescribe.

(5) Any election under this section shall be made at such time and in such manner as the director may by rule prescribe.

NEW SECTION. Sec. 34. The director shall prescribe rules setting forth the application of sections 26 through 34 and 36 of this act (relating to tax liens) in the case of an interest in a partnership, corporation, or trust which, with respect to the decedent, is an interest in a closely held business (within the meaning of section 6166(b)(1) of the Internal Revenue Code of 1954).

NEW SECTION. Sec. 35. If an election is made to value property at current use for federal but not state purposes, the current use value of the property determined for federal purposes shall not affect the value of the property for purposes of the state inheritance tax.

If an election is made to value the same property at current use for federal and state purposes, then RCW 83.40.040 (federal audit) shall apply to the property. An election to value property at current use under sections 26

through 34 of this act for state inheritance tax purposes may be made whether or not an election is made to value property at current use under section 2032(a) of the Internal Revenue Code of 1954 for federal estate tax purposes.

NEW SECTION. Sec. 36. There is added to chapter 83.04 RCW a new section to read as follows:

(1) In the case of any interest in qualified real property (within the meaning of section 27 of this act) an amount equal to the adjusted tax difference attributable to the interest (within the meaning of section 28(2)(b) of this act) shall be a lien in favor of the state on the property in which the interest exists.

(2) The lien imposed by this section shall arise at the time an election is filed under section 29 of this act and shall relate back to the date of death of the decedent and continue with respect to any interest in the qualified real property until:

(a) The liability for tax under section 28 of this act with respect to the interest has been satisfied or has become unenforceable by reason of lapse of time; or

(b) It is established to the satisfaction of the director that no further tax liability may arise under section 28 of this act with respect to the interest.

(3) The notice of the lien imposed by this section shall be filed with the auditor of the county wherein the property is located. The notice of the lien shall not be required to be refiled.

(4) If there is a lien under this section on any property with respect to any estate, there shall not be any lien under RCW 83.04.023.

(5) To the extent provided in rules prescribed by the director, the furnishing of security may be substituted for the lien imposed by this section.

(6) The lien imposed by this section may be subordinated to any subsequent lien if the director determines that the state will be adequately secured after the subordination.

Sec. 37. Section 83.16.010, chapter 15, Laws of 1961 and RCW 83.16.010 are each amended to read as follows:

All property of the estate of a deceased person, for the purposes of computing the inheritance tax, shall be valued and appraised at the fair market value ~~((thereof))~~, unless current use valuation is elected under sections 26 through 34 of this 1979 act, on the day of the death of the decedent owner thereof and subsequent sales shall not affect the value so used. The executor, administrator or trustee in preparing the inventory in all probate cases, shall insert at the right of each real estate tract, the assessed valuation of such tract and of the improvements thereon for the information of the appraisers and other interested parties.

Sec. 38. Section 83.40.040, chapter 15, Laws of 1961 as amended by section 12, chapter 28, Laws of 1963 ex. sess. and RCW 83.40.040 are each amended to read as follows:

Except as provided in section 35 of this act, if after the values have been determined under this title for inheritance tax purposes, the same estate is valued under the federal estate tax statute and the date of death value of the property, or any portion thereof, fixed under the federal law, is increased above or decreased below the value theretofore fixed under the inheritance tax provisions of this title, and this valuation under the federal estate tax is accepted by the estate either by agreement or through final determination in the federal court, the value as fixed under the inheritance tax provisions of this title upon such property or portion thereof shall be increased or decreased to this amount.

NEW SECTION. Sec. 39. Sections 26 through 35 of this act are each added to chapter 83.16 RCW.

Sec. 40. Section 83.20.010, chapter 15, Laws of 1961 and RCW 83.20.010 are each amended to read as follows:

All gifts, bequests, devises, and transfers of property to or for the use of any of the following shall be exempt from inheritance tax:

- (1) The United States of America;
- (2) The state of Washington;
- (3) A municipal or public corporation, school district or any school or educational institution in this state supported by public funds in whole or in part;
- (4) A trust or a fraternal society, order or association operating under the lodge system, exclusively for any religious, charitable, scientific, literary, educational, public or other like work, whether or not such work is to be carried on within this state; or
- (5) A society, corporation, institution, organization or association exclusively engaged in or devoted to any religious, charitable, scientific, literary, educational, public or other like work, no part of the net earnings of which inures to the benefit of any private stockholder or individual, whether or not it be organized under the laws of this state or engaged in such work therein.

No exemption is allowed under this section for any portion of a gift, devise, or bequest which is directed and used for the payment of any federal estate or gift tax or state inheritance or gift tax.

Sec. 41. Section 19, chapter 292, Laws of 1961 and RCW 83.40.010 are each amended to read as follows:

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 per cent 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 federal 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. 42. Section 2, chapter 148, Laws of 1973 and RCW 11.86.010 are each amended to read as follows:

As used in this section, unless otherwise clearly required by the context:

(1) "Beneficiary" means and includes any person entitled, but for his disclaimer, to take an interest: By intestate succession, devise, legacy, or bequest; by succession to a disclaimed interest by will, trust instrument, intestate succession, or through the exercise or nonexercise of a testamentary or other power of appointment; by virtue of a renunciation and election to take against a will; as beneficiary of a testamentary or other written trust or life insurance policy; pursuant to the exercise or nonexercise of a testamentary or other power of appointment; as donee of a power of appointment created by testamentary or trust instrument; (~~(or)~~) otherwise under a trust, testamentary or (~~(trust)~~) nontestamentary instrument or contract or community property agreement; or by right of survivorship.

(2) "Interest" means and includes the whole of any property, real or personal, legal or equitable, or any fractional part, share or particular portion or specific assets thereof, or any estate in any such property, or power to appoint, consume, apply or expend property or any other right, power, privilege or immunity relating thereto.

(3) "Disclaimer" means a written instrument which declines, refuses, releases, renounces or disclaims an interest which would otherwise be succeeded to by a beneficiary, which instrument defines the nature and extent of the interest disclaimed thereby and which must be signed, witnessed and acknowledged by the disclaimant in the manner provided for deeds of real estate, and also a written instrument which exercises a power to invade the corpus or principal of an estate or trust when such exercise has the effect of terminating an interest which could otherwise be succeeded to by a beneficiary.

Sec. 43. Section 3, chapter 148, Laws of 1973 and RCW 11.86.020 are each amended to read as follows:

A beneficiary may disclaim any interest in whole or in part, or with reference to specific parts, shares or assets thereof, ~~((by filing a disclaimer in court))~~ in the manner provided in RCW 11.86.030 and 11.86.040. A guardian, executor, administrator, attorney in fact under a durable power of attorney under chapter 11.94 RCW, or other personal representative of the estate of a minor, incompetent or deceased beneficiary, if he deems it in the best interests of those interested in the estate of such beneficiary and of those who take the beneficiary's interest by virtue of the disclaimer and not detrimental to the best interests of the beneficiary, with or without an order of the probate court, may ~~((execute and file a disclaimer))~~ disclaim on behalf of the beneficiary within the time and in the manner in which the beneficiary himself could disclaim if he were living, of legal age and competent. A beneficiary likewise may ~~((execute and file a disclaimer))~~ disclaim by agent or attorney so empowered.

Sec. 44. Section 4, chapter 148, Laws of 1973 and RCW 11.86.030 are each amended to read as follows:

Such disclaimer shall be filed and received as provided in RCW 11.86-.040 at any time after the creation of the interest, but in all events ~~((within the later of six months from June 7, 1973 or six))~~ by nine months after (1) the beneficiary attains the age of twenty-one, (2) the death of the person by whom the interest was created or from whom it is or, but for the disclaimer would be received, or, (3) if the disclaimant is not finally ascertained as a beneficiary or his interest has not become indefeasibly fixed both in quality and quantity as of the death of such person, then such disclaimer shall be filed and received not later than ((six)) nine months after the event which causes or, but for the disclaimer, would cause him so to become finally ascertained and his interest to become indefeasibly fixed both in quality and quantity, whichever occurrence is latest.

Sec. 45. Section 5, chapter 148, Laws of 1973 and RCW 11.86.040 are each amended to read as follows:

Such disclaimer shall be effective upon (1) a copy thereof being filed with the clerk of the court of which the estate of the person by whom the interest was created or from whom it would have been received is, or has been, administered or, if no probate administration has been commenced, then with the clerk of the court of any county provided by law as the place for probate administration of the estate of such person, where it shall be indexed under the name of the decedent in the probate index upon payment of a fee of two dollars~~((A copy of the disclaimer shall be delivered or mailed by certified or registered mail, return receipt requested to the representative, trustee or other person having legal title to, or possession of, the property in which the interest disclaimed exists, and))~~; and (2) receipt of the disclaimer by the transferor of the interest, his legal representative, or the holder of the legal title to the property to which the interest relates, or,

if the transferor is dead and there is no legal representative or holder of legal title, by the person having possession of the property. No such representative(~~(, trustee)~~) or person shall be liable for any otherwise proper distribution or other disposition made without actual knowledge of the disclaimer, or in reliance upon the disclaimer and without actual knowledge that said disclaimer is barred as provided in RCW 11.86.060. If an interest in or relating to real estate is disclaimed, the original of the disclaimer, or a copy of the disclaimer certified as true and complete by the clerk of the court wherein the same has been filed, shall be recorded in the office of the auditor in the county or counties where the real estate is situated and shall constitute notice to all persons only from and after the time of such recording.

Sec. 46. Section 6, chapter 148, Laws of 1973 and RCW 11.86.050 are each amended to read as follows:

Unless the person by whom the interest was created or from whom it would have been received has otherwise provided by will or other appropriate instrument with reference to the possibility of a disclaimer by the beneficiary, the interest disclaimed shall descend, be distributed or otherwise be disposed of in the same manner as if the disclaimant had died immediately preceding the ((~~death or other event which causes him to become finally ascertained as a beneficiary and his interest to become indefeasibly fixed both in quality and quantity~~) event giving rise to the commencement of the nine month period under RCW 11.86.030 in which the disclaimer must be filed, and ((in any case,)) the disclaimer shall relate for all purposes to such date, whether filed before or after such ((~~death or other~~) event. However, one disclaiming an interest ((in)), including a nonresiduary ((~~gift, devise or bequest~~) interest, shall not be ((~~excluded~~) precluded, unless his disclaimer so provides, from ((~~sharing in a gift, devise or bequest of the residue even though, through lapse, such residue includes the assets disclaimed~~) receiving or enjoying the benefit of the disclaimed interest or any portion of it by virtue of a residuary bequest or devise, or otherwise. An interest of any nature in or to the estate of an intestate may be declined, refused or disclaimed as herein provided without ever vesting in the disclaimant.

Sec. 47. Section 7, chapter 148, Laws of 1973 and RCW 11.86.060 are each amended to read as follows:

The right to disclaim otherwise conferred by this chapter shall be barred if the beneficiary is insolvent at the time of the event giving rise to the commencement of the ((~~six months~~) nine month period under RCW 11.86.030 within which the disclaimer must be filed. Any voluntary assignment or transfer of, or contract to assign or transfer, an interest in real or personal property, or written waiver of the right to disclaim the succession to an interest in real or personal property, by any beneficiary, or any sale or other disposition of an interest in real or personal property pursuant to judicial process, made before he has filed a disclaimer, as provided in RCW

11.86.040, bars the right otherwise conferred on such beneficiary to disclaim as to such interest.

Sec. 48. Section 8, chapter 148, Laws of 1973 and RCW 11.86.070 are each amended to read as follows:

The right to disclaim granted by RCW 11.86.020 exists regardless of any limitation imposed on the interest of the disclaimant in the nature of an express or implied spendthrift provision or similar restriction. A disclaimer, when filed and received as provided in RCW 11.86.040, or a written waiver of the right to disclaim, shall be binding upon the disclaimant or beneficiary so waiving and all parties thereafter claiming by, through or under him, except that a beneficiary so waiving may thereafter transfer, assign or release his interest if such is not prohibited by an express or implied spendthrift provision.

NEW SECTION. Sec. 49. There is added to chapter 11.86 RCW a new section to read as follows:

If a beneficiary disclaims an interest under this chapter more than nine months after the date of death of the transferor of the interest, there shall be no recalculation of the inheritance tax with respect to the deceased transferor.

Sec. 50. Section 48, chapter 26, Laws of 1967 ex. sess. as amended by section 3, chapter 158, Laws of 1975 1st ex. sess. and RCW 82.03.190 are each amended to read as follows:

Any person having received notice of a denial of a petition or a notice of determination made under RCW 82.32.160 (~~and~~), 82.32.170, section 37 of this 1979 act, or RCW ... (section 12, chapter ... (SB 2182), Laws of 1979) may appeal, within thirty days from the date of the notice of such denial or determination, to the board of tax appeals. In the notice of appeal the taxpayer shall set forth the amount of the tax which he contends should be reduced or refunded and the reasons for such reduction or refund, in accordance with rules of practice and procedure prescribed by the board. The appeal shall be perfected by serving a copy of the notice of appeal upon the department of revenue within the time specified herein and by filing the original thereof with proof of service with the clerk of the board: **PROVIDED, HOWEVER,** That if the notice of appeal relates to an application made to the department of revenue under chapter 82.34 RCW, the taxpayer shall set forth the amount to which the taxpayer claims the credit or exemption should apply, and the grounds for such contention, in accordance with rules of practice and procedure prescribed by the board. If the taxpayer intends that the hearing before the board be held pursuant to the administrative procedure act (chapter 34.04 RCW), the notice of appeal shall also

so state. In the event that the notice of appeal does not so state, the department may, within ten days from the date of its receipt of the notice of appeal, file with the clerk of the board notice of its intention that the hearing be held pursuant to the administrative procedure act.

NEW SECTION. Sec. 51. There is added to chapter 83.24 RCW a new section to read as follows:

Any person aggrieved by the determination of the tax by the department of revenue pursuant to RCW 83.24.010 may file an appeal with the board of tax appeals as provided in RCW 82.03.190. A person not electing to appeal to the board of tax appeals may file a petition in superior court as provided in RCW 83.24.020.

NEW SECTION. Sec. 52. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions; shall take effect immediately; and shall be effective with respect to persons dying after the effective date of this act.

NEW SECTION. Sec. 53. 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. 54. The following acts or parts of acts are each hereby repealed:

- (1) Section 83.04.050, chapter 15, Laws of 1961 and RCW 83.04.050;
- (2) Section 83.08.020, chapter 15, Laws of 1961 and RCW 83.08.020;
- (3) Section 83.08.030, chapter 15, Laws of 1961 and RCW 83.08.030;
- (4) Section 83.08.040, chapter 15, Laws of 1961 and RCW 83.08.040;
- (5) Section 1, chapter 11, Laws of 1963 ex. sess. and RCW 83.20.020;
- (6) Section 1, chapter 8, Laws of 1965 ex. sess., section 6, chapter 149, Laws of 1973 1st ex. sess., section 1, chapter 221, Laws of 1973 1st ex. sess. and RCW 83.20.030;
- (7) Section 2, chapter 221, Laws of 1973 1st ex. sess. and RCW 83.20.040; and
- (8) Section 83.44.020, chapter 15, Laws of 1961 and RCW 83.44.020.

Passed the Senate May 24, 1979.

Passed the House May 15, 1979.

Approved by the Governor May 29, 1979.

Filed in Office of Secretary of State May 29, 1979.

CHAPTER 210
[Substitute Senate Bill No. 2182]
GIFT TAXES