

RCW 11.108.070 Presumptions for the interpretation, construction, and administration of governing instrument. (1) The legislature finds that the citizens and residents of the state, and nonresidents of the state having property located in Washington, desire to take full advantage of the exemptions, exclusions, deductions, and credits allowable under the federal estate, gift, income, and generation-skipping transfer taxes, and the Washington counterparts to those taxes, if any, unless the facts and circumstances indicate otherwise, or the transferor has expressed a contrary intent in the governing instrument.

(2) In interpreting, construing, or administering a governing instrument, absent a clear expression of intent by the transferor to the contrary, the following presumptions apply and may only be rebutted by clear, cogent, and convincing evidence to the contrary, but these presumptions of intent do not require the making of any particular voluntary tax election:

(a) The transferor intended to take advantage of the maximum benefit of tax deductions, exemptions, exclusions, or credits;

(b) The transferor intended any gift to a spouse made outright and free of trust is to qualify for the gift or estate tax marital deduction and to be a marital deduction gift; and

(c) If the governing instrument refers to a trust as a marital trust, QTIP trust, or spousal trust, or refers to qualified terminable interest property, QTIP, or QTIP property, sections 2044, 2056, and 2523 of the Internal Revenue Code or similar provisions of applicable state law, the transferor intended the property passing to such a trust and the trust to qualify for the applicable gift or estate tax marital [marital] deduction, and for the gift to qualify for a marital deduction gift.

(3) References in this chapter to provisions of the Internal Revenue Code include references to similar provisions, if any, of applicable state law. [2006 c 360 s 4.]

Clarification of laws—Enforceability of act—2006 c 360: "This act clarifies and declares the existing laws of this state. This act is enforceable as to all persons and all trusts regardless of when the trust was created." [2006 c 360 s 17.]

Severability—2006 c 360: "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." [2006 c 360 s 18.]