

RCW 83.100.047 Marital deduction, qualified domestic trust—Election—State registered domestic partner entitled to deduction—Other deductions taken for income tax purposes disallowed. (1)(a) If the federal taxable estate on the federal return is determined by making an election under section 2056 or 2056A of the internal revenue code, or if no federal return is required to be filed, the department may provide by rule for a separate election on the Washington return, consistent with section 2056 or 2056A of the internal revenue code and (b) of this subsection, for the purpose of determining the amount of tax due under this chapter. The election is binding on the estate and the beneficiaries, consistent with the internal revenue code and (b) of this subsection. All other elections or valuations on the Washington return must be made in a manner consistent with the federal return, if a federal return is required, and such rules as the department may provide.

(b) The department must provide by rule that a state registered domestic partner is deemed to be a surviving spouse and entitled to a deduction from the Washington taxable estate for any interest passing from the decedent to his or her domestic partner, consistent with section 2056 or 2056A of the internal revenue code but regardless of whether such interest would be deductible from the federal gross estate under section 2056 or 2056A of the internal revenue code.

(2) Amounts deducted for federal income tax purposes under section 642(g) of the internal revenue code of 1986 are not allowed as deductions in computing the amount of tax due under this chapter.

(3) Notwithstanding any department rule, if a taxpayer makes an election consistent with section 2056 of the internal revenue code as permitted under this section, the taxpayer's Washington taxable estate, and the surviving spouse's Washington taxable estate, must be adjusted as follows:

(a) For the taxpayer that made the election, any amount deducted by reason of section 2056(b)(7) of the internal revenue code is added to, and the value of property for which a Washington election under this section was made is deducted from, the Washington taxable estate.

(b) For the estate of the surviving spouse, the amount included in the estate's gross estate pursuant to section 2044 (a) and (b)(1)(A) of the internal revenue code is deducted from, and the value of any property for which an election under this section was previously made is added to, the Washington taxable estate. [2013 2nd sp.s. c 2 § 6; (2013 2nd sp.s. c 2 § 5 expired January 1, 2014); 2009 c 521 § 192; 2005 c 516 § 13.]

Application—Prospective and retroactive—2013 2nd sp.s. c 2 §§ 2 and 5: "Sections 2 and 5 of this act apply both prospectively and retroactively to all estates of decedents dying on or after May 17, 2005." [2013 2nd sp.s. c 2 § 9.]

Expiration date—2013 2nd sp.s. c 2 § 5: "Section 5 of this act expires January 1, 2014." [2013 2nd sp.s. c 2 § 13.]

Findings—Intent—Final judgment—Affect—Effective dates—2013 2nd sp.s. c 2: See notes following RCW 83.100.048.

Effective dates—2009 c 521 §§ 5-8, 79, 87-103, 107, 151, 165, 166, 173-175, and 190-192: See note following RCW 2.10.900.

~~Finding—Intent—Application—Severability—Effective date—2005 c~~
516: See notes following RCW 83.100.040.