

WAC 458-57-125 Apportionment of tax when out-of-state property is included in the gross estate of a decedent. (1) **Introduction.** This rule applies to deaths occurring on or after May 17, 2005, and discusses how to apportion the estate tax when there is out-of-state property included in the gross estate. The estate tax rule on apportionment of estate tax for deaths occurring on or before May 16, 2005, can be found in WAC 458-57-025.

(2) **Calculation of apportioned tax.** Apportionment of the tax is allowed for estate property located outside of Washington, even if the other state where the out-of-state property is located does not impose an estate tax. The amount of tax is determined by multiplying the pre-apportioned tax using Table W by a fraction. The numerator of the fraction is the value of the property included in the decedent's gross estate that is located in Washington. The denominator of the fraction is the value of the decedent's gross estate. Intangible property is located in Washington if the decedent was a resident of this state at death. Property qualifying for the farm deduction is excluded from the numerator and denominator of the fraction. See WAC 458-57-155, Farm deduction, for additional information.

(a) **Example - Washington resident decedent.** A widow dies during 2014 leaving a gross estate of \$4.1 million. The decedent was a Washington resident at death. Decedent's primary residence is located in Seattle, Washington. The decedent also owned a second home in Arizona valued at \$300,000 and unimproved real property in South Dakota valued at \$750,000. The estate had \$100,000 in expenses deductible for federal estate tax purposes. The applicable exclusion amount for 2014 after adjustment for inflation is \$2,012,000.

Under the facts of this example the estate owes Washington estate tax on a Washington taxable estate of \$1,988,000, computed as shown below:

Gross estate:	\$4,100,000
Less allowable deductions:	(\$100,000)
Less applicable exclusion amount:	(\$2,012,000)
Washington taxable estate:	\$1,988,000

The preapportionment Washington estate tax for this estate, using the table provided in WAC 458-57-115 (3)(a), equals \$238,320, computed as follows: $\$100,000 + (\$988,000 \times 14\%) = \$238,320$.

Because the decedent owned out-of-state property, a house in Arizona and unimproved real property in South Dakota that are not subject to Washington estate tax, the tax due to Washington is calculated by multiplying the amount of preapportionment tax computed above by the fraction described in this subsection (2). Also, because the decedent was a Washington resident at death, the numerator of the fraction is the value of all property included in the decedent's gross estate that is located in this state, including the decedent's intangible personal property. The denominator of the fraction is the value of the decedent's gross estate. Using the facts in our example, the tax owed to Washington equals \$177,287, computed as follows: $((\$4,100,000 - \$1,050,000) / \$4,100,000) \times \$238,320 = \$177,287$.

(b) **Example - Nonresident decedent.** A widow dies during 2013 leaving a gross estate of \$6 million. The decedent was a Colorado resident at death and all of the decedent's property is located in that state, except for a vacation home located in Washington valued at \$650,000. The estate had \$100,000 in expenses deductible for federal

estate tax purposes. The applicable exclusion amount for 2013 is \$2,000,000.

Under the facts of this example, the estate owes Washington estate tax on a Washington taxable estate of \$3,900,000, computed as shown below:

Gross estate:	\$6,000,000
Less allowable deductions:	(\$100,000)
Less applicable exclusion amount:	(\$2,000,000)
Washington taxable estate:	\$3,900,000

The preapportionment Washington estate tax for this estate, using the table provided in WAC 458-57-115 (3)(a), equals \$534,000, computed as follows: \$390,000 + (\$900,000 x 16%) = \$534,000.

Because the decedent owned property located outside Washington, the tax due to Washington is calculated by multiplying the amount of preapportionment tax computed above by the fraction described in this subsection (2). Also, because the decedent was not a Washington resident at death, the numerator of the fraction does not include the value of decedent's intangible personal property. The denominator of the fraction is the value of the decedent's gross estate. Using the facts in this example, the tax owed to Washington equals \$57,850, computed as follows: (\$650,000/\$6,000,000) x \$534,000 = \$57,850.

(3) **When is property located in Washington?** The location of property owned by the decedent is determined at the time of death.

(a) All real property physically situated in this state, with the exception of federal trust lands, and all interests in such property, is located in Washington. Interests in real property include, but are not limited to:

- (i) Mineral interests;
- (ii) Decedent's beneficial interest in real property held in trust; and

(iii) Decedent's interest in jointly owned property (e.g., tenants in common, joint with right of survivorship).

(b) Tangible personal property of a decedent is located in Washington if:

(i) At the time of death the property is situated in Washington; and

- (ii) It is present for a purpose other than transiting the state.

(c) Intangible personal property of a decedent is located in Washington if the decedent was a resident of this state at death.

(d) **Example.** A nonresident decedent was a construction contractor doing business as a sole proprietor. The decedent was constructing a large building in Washington. At the time of death, any of the decedent's equipment that was located at the job site, such as tools, earthmovers, bulldozers, trucks, etc., is located in Washington for estate tax purposes because that property was present in the state for a purpose other than transiting the state.

[Statutory Authority: RCW 83.100.200, 82.32.300, 82.01.060(2), 83.100.020, 83.100.040, 83.100.047, 83.100.048, 83.100.120, and 83.100.210. WSR 14-14-075, § 458-57-125, filed 6/27/14, effective 7/28/14. Statutory Authority: RCW 83.100.047 and 83.100.200. WSR 06-07-051, § 458-57-125, filed 3/9/06, effective 4/9/06.]