

Special Notice

Intended audience: Anyone filing a Washington State Estate and Transfer Tax Return

Effective June 1, 2020

Estate tax treatment of real property owned by business entities

The Department of Revenue administers the Washington estate tax (Chapter 83.100 RCW). This Special Notice provides guidance on determining the Washington taxable estate of a decedent whose ownership interests in business entities hold real property.

Washington estate tax is imposed on every transfer of property located in Washington. For a decedent domiciled in Washington on their date of death, any of their intangible personal property is considered located in Washington. For a decedent domiciled outside of Washington, any of their intangible personal property is considered located outside of Washington. Intangible personal property includes interests in business entities. For more information refer to [RCW 83.100.040](#); [WAC 458-57-025](#); [WAC 458-57-125](#).

True business purpose guidance (prior guidance)

Prior to June 1, 2020, the department provided the following guidance to estates:

Real property owned by a limited liability company (LLC) operating for a true business purpose is considered an intangible asset and is allocated to the decedent's state of domicile. The value of a decedent's ownership interest in a LLC created to hold real estate and not operating for a true business purpose (for example a family vacation home) is allocated to the real property location. This same principal holds true for any type of business interest ownership (LLC, family limited partnership, corporation, etc.). An ownership interest is determined to be an intangible or tangible asset based on whether it is operating for a true business purpose.

Policy revision: June 1, 2020

As of June 1, 2020, the department will no longer apply the 'true business purpose' test for general estate tax purposes.

Note: This change does not include application of a business purpose test for special deductions such as the Qualified Family Owned Business Deduction in [RCW 83.100.048](#) and [WAC 458-57-175](#).

How is the revised policy applied?

If an estate holds property in an entity such as a LLC, the department will not require a true business purpose for an interest in that entity to be determined as an intangible asset.

Transitional period guidance

There may be some estates that remain open and either have filed timely estate tax returns or have not yet filed timely returns at the time of this guidance. Estates in transition should follow the guidelines below.

Estates where an estate tax return was filed, but the estate is not closed before June 1, 2020:

- Taxpayers may file an amended return, reflecting interests in business entities affected by this policy as intangible assets, if they file within the statute of limitations. Please be aware this may have other effects on the taxable estate.
- If the estate does not amend their return and made a good faith effort to comply with the department's prior guidance, the estate will not be billed for any additional tax due to the policy change.

Estates where the decedent died before June 1, 2020, and the estate has not filed the estate tax return:

If the estate made a good faith effort to comply with the department's prior guidance, the estate will not be billed for any additional tax due to the policy change.

Estates where the decedent died after June 1, 2020:

New policy applies. However, if the decedent dies between June 1 – Nov. 30, 2020, the department will accept the decedent's estate reporting under the prior guidance if it made a good faith effort to comply with the prior departmental guidance.

Estates closed before June 1, 2020:

No changes.

Questions?

For questions, please call the estate team at 360-704-5906 or visit dor.wa.gov.

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For tax assistance or to request this document in an alternate format, visit dor.wa.gov or call 360-705-6705. Teletype (TTY) users may use the Washington Relay Service by calling 711.