EXPEDITED RULE MAKING

CR-105 (July 2026)
(Implements RCW 34.05.353)

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FILED

DATE: October 06, 2026
TIME: 7:25 PM

WSR 26-20-099

Agency: Department of Revenue

Title of rule and other identifying information: (describe subject) WAC 458-57-105 Nature of estate tax, definitions; WAC 458-57-115 Valuation of property, property subject to estate tax, and how to calculate the tax.

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The department is amending these estate tax rules to incorporate 2026 legislation, ESB 6347. This legislation modified the applicable exclusion amount and amended RCW 83.100.020 and 83.100.040.

Reasons supporting proposal: The proposed amendments are necessary to align WAC 458-57-105 and WAC 458-57-115 with the statutory changes enacted by ESB 6347 and provide clarity for administering the estate tax.

Statutory authority for adoption: RCW 82.01.060; 82.32.300; RCW 83.100.200

Statute being implemented: RCW 83.100.020 and 83.100.040.

Is rule necessary because of a:

Federal Law?	☐ Yes	☒ No
Federal Court Decision?	☐ Yes	☒ No
State Court Decision?	☐ Yes	☒ No

If yes, CITATION:

Name of proponent: (person or organization) Department of Revenue

☐ Private
☐ Public
☒ Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
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Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None

Expedited Adoption - Which of the following criteria was used by the agency to file this notice:

☐ Relates only to internal governmental operations that are not subject to violation by a person;

☒ Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule;

☐ Corrects typographical errors, make address or name changes, or clarify language of a rule without changing its effect;

☐ Content is explicitly and specifically dictated by statute;

☐ Substitutes "alien" with "noncitizen" and related grammatical changes not changing the effect of the rule;

☐ Has been the subject of negotiated rule making, pilot rule making, or some other process that involved substantial participation by interested parties before the development of the proposed rule; or

☐ Is being amended after a review under RCW 34.05.328.

Expedited Repeal - Which of the following criteria was used by the agency to file notice:

☐ The statute on which the rule is based has been repealed and has not been replaced by another statute providing statutory authority for the rule;

☐ The statute on which the rule is based has been declared unconstitutional by a court with jurisdiction, there is a final judgment, and no statute has been enacted to replace the unconstitutional statute;

☐ The rule is no longer necessary because of changed circumstances; or

☐ Other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.

Explanation of the reason the agency believes the expedited rule-making process is appropriate pursuant to RCW 34.05.353(4): The expedited rule-making process is applicable to these rule updates because the Department is incorporating changes resulting from 2026 legislation

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO

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BEGINNING (date/time) 10/06/2026/ 6 PM **AND RECEIVED BY** (date/time) 12/07/2026/ 12 PM

Date: 10/06/2026	**Signature:**
Name: Perry Samans	
Title: Rules Coordinator	

This rule draft is being proposed under an expedited rule-making process that does not require the agency to hold public hearings.
Under no circumstances is this proposed rule to be used as a basis for determining tax liability or eligibility for a tax deduction, exemption, or credit.

AMENDATORY SECTION (Amending WSR 26-01-184, filed 12/23/25, effective 1/23/26)

WAC 458-57-105 Nature of estate tax, definitions. (1) **Introduction.** This rule applies to deaths occurring on or after May 17, 2005, and describes the nature of Washington state's estate tax as it is imposed by chapter 83.100 RCW (Estate and Transfer Tax Act). It also defines terms that will be used throughout chapter 458-57 WAC (Washington Estate and Transfer Tax Reform Act rules).

(2) **Nature of Washington's estate tax.** The estate tax is neither a property tax nor an inheritance tax. It is a tax imposed on the transfer of the entire taxable estate and not upon any particular legacy, devise, or distributive share.

(a) **Relationship of Washington's estate tax to the federal estate tax.** The department administers the estate tax under the legislative enactment of chapter 83.100 RCW, which references the Internal Revenue Code (IRC) as it existed January 1, 2005. Federal estate tax law changes enacted after January 1, 2005, do not apply to the reporting requirements of Washington's estate tax. The department will follow federal Treasury Regulations section 20 (Estate tax regulations), in existence on January 1, 2005, to the extent they do not conflict with the provisions of chapter 83.100 RCW or 458-57 WAC. For deaths occurring January 1, 2009, and after, Washington has different estate tax reporting and filing requirements than the federal government. There will be estates that must file an estate tax return with the state of Washington, even though they are not required to file with the federal government. The Washington state estate and transfer tax return and the instructions for completing the return can be found on the department's website at http://www.dor.wa.gov/ under the heading titled forms.

(b) **Lifetime transfers.** Washington estate tax taxes lifetime transfers only to the extent included in the federal gross estate. The state of Washington does not have a gift tax.

(3) **Definitions.** The following terms and definitions are applicable throughout chapter 458-57 WAC:

(a) "Absentee distributee" means any person who is the beneficiary of a will or trust who has not been located;

(b) "Applicable exclusion amount" means:

(i) ((~~One million five hundred thousand dollars~~)) $1,500,000 for decedents dying before January 1, 2006;

(ii) ((~~Two million dollars~~)) $2,000,000 for estates of decedents dying on or after January 1, 2006, but before January 1, 2014;

(iii) ((~~Two million twelve thousand dollars~~)) $2,012,000 for estates of decedents dying on or after January 1, 2014, but before January 1, 2015;

(iv) ((~~Two million fifty-four thousand dollars~~)) $2,054,000 for estates of decedents dying on or after January 1, 2015, but before January 1, 2016;

(v) ((~~Two million seventy-nine thousand dollars~~)) $2,079,000 for estates of decedents dying on or after January 1, 2016, but before January 1, 2017;

(vi) ((~~Two million one hundred twenty-nine thousand dollars~~)) $2,129,000 for estates of decedents dying on or after January 1, 2017, but before January 1, 2018;

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(vii) ((~~Two million one hundred ninety-three thousand dollars~~)) $2,193,000 for estates of decedents dying on or after January 1, 2018, but before July 1, 2025;

(viii) ((~~Three million dollars~~)) $3,000,000 for estates of decedents dying on or after July 1, 2025, but before January 1, 2026; ((~~and~~))

(ix) $3,076,000 for estates of decedents dying on or after January 1, 2026, but before July 1, 2026;

(x) $3,000,000 for estates of decedents dying on or after July 1, 2026; and

(xi) For estates of decedents dying in calendar year ((~~2026~~)) 2027 and each calendar year thereafter, the amount in (b)(viii) of this subsection must be adjusted annually, except as otherwise provided in this subsection (b)((~~(ix)~~)) (xi). The annual adjustment is determined by multiplying $3,000,000 by the sum of one and the percentage by which the most recent October consumer price index exceeds the consumer price index for October 2024, and rounding the result to the nearest $1,000. No adjustment is made for a calendar year if the adjustment would result in the same or a lesser applicable exclusion amount than the applicable exclusion amount for the immediately preceding calendar year. The applicable exclusion amount under this subsection (b)((~~(ix)~~)) (xi) for the decedent's estate is the applicable exclusion amount in effect as of the date of the decedent's death.

(c) "Consumer price index," for purposes of this subsection, means the consumer price index for all urban customers, all items, for the Seattle metropolitan area as calculated by the United States Bureau of Labor Statistics. For purposes of this subsection, "Seattle-Tacoma-Bremerton metropolitan area" ((~~means the geographic area sample that includes Seattle and surrounding areas~~)) as calculated by the United States Bureau of Labor Statistics;

(d) "Decedent" means a deceased individual;

(e) "Department" means the department of revenue, the director of that department, or any employee of the department exercising authority lawfully delegated to him by the director;

(f) "Escheat" of an estate means that whenever any person dies, whether a resident of this state or not, leaving property in an estate subject to the jurisdiction of this state and without being survived by any person entitled to that same property under the laws of this state, such estate property shall be designated escheat property and shall be subject to the provisions of RCW 11.08.140 through 11.08.300;

(g) "Federal return" means any tax return required by chapter 11 (Estate tax) of the Internal Revenue Code;

(h) "Federal tax" means tax under chapter 11 (Estate tax) of the Internal Revenue Code;

(i) "Federal taxable estate" means the taxable estate as determined under chapter 11 of the Internal Revenue Code without regard to:

(i) The termination of the federal estate tax under section 2210 of the IRC or any other provision of law; and

(ii) The deduction for state estate, inheritance, legacy, or succession taxes allowable under section 2058 of the IRC.

(j) "Gross estate" means "gross estate" as defined and used in section 2031 of the Internal Revenue Code;

(k) "Internal Revenue Code" or "IRC" means, for purposes of this chapter, the United States Internal Revenue Code of 1986, as amended or renumbered on January 1, 2005;

(l) "Person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership,

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joint venture, syndicate, or other entity and, to the extent permitted by law, any federal, state, or other governmental unit or subdivision or agency, department, or instrumentality thereof;

(m) "Person required to file the federal return" means any person required to file a return required by chapter 11 of the Internal Revenue Code, such as the personal representative (executor) of an estate;

(n) "Property," when used in reference to an estate tax transfer, means property included in the gross estate;

(o) "Resident" means a decedent who was domiciled in Washington at time of death;

(p) "Spouse" means two individuals with a valid marriage recognized under this or another jurisdiction's laws and includes state registered domestic partners and same-sex spouses. It does not include a marriage prohibited under Washington state law because of close kinship, incest, or bigamy;

(q) "State return" means the Washington estate tax return required by RCW 83.100.050;

(r) "Taxpayer" means a person upon whom tax is imposed under this chapter, including an estate or a person liable for tax under RCW 83.100.120;

(s) "Transfer" means "transfer" as used in section 2001 of the Internal Revenue Code and includes any shifting upon death of the economic benefit in property or any power or legal privilege incidental to the ownership or enjoyment of property. However, "transfer" does not include a qualified heir disposing of an interest in property qualifying for a deduction under RCW 83.100.046;

(t) "Washington taxable estate" means the "federal taxable estate" and includes, but is not limited to, the value of any property included in the gross estate under section 2044 of the Internal Revenue Code, regardless of whether the decedent's interest in such property was acquired before May 17, 2005:

(i) Plus amounts required to be added to the Washington taxable estate under RCW 83.100.047 for the marital deduction and surviving spouse benefits that includes state registered domestic partners and same-sex spouses;

(ii) Less:

(A) The applicable exclusion amount;

(B) The amount of any deduction allowed under RCW 83.100.046 for a qualified farm;

(C) Amounts allowed to be deducted from the Washington taxable estate under RCW 83.100.047 for the marital deduction and surviving spouse benefits that includes state registered domestic partners and same-sex spouses; and

(D) The amount of any deduction allowed under RCW 83.100.048 for the qualified family-owned business interest.

AMENDATORY SECTION (Amending WSR 26-01-184, filed 12/23/25, effective 1/23/26)

WAC 458-57-115 Valuation of property, property subject to estate tax, and how to calculate the tax. (1) **Introduction.** This rule applies to deaths occurring on or after May 17, 2005, and is intended to help taxpayers prepare their return and pay the correct amount of

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Washington state estate tax. It explains the necessary steps for determining the tax and how the tax is calculated.

(2) **Determining the property subject to Washington's estate tax.**

(a) **General valuation information.** The value of every item of property in a decedent's gross estate is its date of death fair market value. However, the personal representative may elect to use the alternate valuation method under section 2032 of the Internal Revenue Code, and in that case the value is the fair market value at that date, including the adjustments prescribed in that section of the Internal Revenue Code. The alternate valuation method must match the federal estate return, when a federal return is filed. The valuation of certain farm property and closely held business property, properly made for federal estate tax purposes pursuant to an election authorized by section 2032A of the Internal Revenue Code of 2005, is binding on the estate for state estate tax purposes.

(b) **How is the gross estate determined?** The first step in determining the value of a decedent's Washington taxable estate is to determine the total value of the gross estate. The value of the gross estate includes the value of all the decedent's tangible and intangible property at the time of death. In addition, the gross estate may include property in which the decedent did not have an interest at the time of death. A decedent's gross estate for estate tax purposes may therefore be different from the same decedent's estate for local probate purposes. Sections 2031 through 2046 of the Internal Revenue Code provide a detailed explanation of how to determine the value of the gross estate.

(c) **Deductions from the gross estate.** The value of the taxable estate is determined by subtracting the authorized exemption and deductions from the value of the gross estate. Under various conditions and limitations, deductions are allowable for expenses, indebtedness, taxes, losses, charitable transfers, and transfers to a surviving spouse. While sections 2051 through 2056A of the Internal Revenue Code provide a detailed explanation of how to determine the value of the taxable estate the following areas are of special note:

(i) **Funeral expenses.**

(A) Washington is a community property state and under *Estate of Julius C. Lang v. Commissioner*, 97 Fed. 2d 867 (9th Cir. 1938) affirming the reasoning of *Wittwer v. Pemberton*, 188 Wash. 72, 76, 61 P.2d 993 (1936) funeral expenses reported for a married decedent must be halved. Administration expenses are not a community debt and are reported at 100%.

(B) **Example.** John, a married man, died in 2020 with an estate valued at $3,500,000. The following were listed as expenses on Schedule J of the federal estate tax return:

SCHEDULE J - Funeral Expenses and Expenses Incurred in Administering Property Subject to Claims			
Item Number	Description	Expense Amount	Total Amount
1	**A. Funeral expenses:** Burial and services	$4,000	
	(1/2 community debt)	($2,000)	
	Total funeral expenses		$2,000
	B. Administration expenses:		
	1. Executors' commissions - amount estimated/agreed upon paid. (Strike out the words that do not apply.)		$10,000

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SCHEDULE J - Funeral Expenses and Expenses Incurred in Administering Property Subject to Claims			
Item Number	Description	Expense Amount	Total Amount
	2. Attorney fees - amount estimated/agreed upon/paid. (Strike out the words that do not apply.)		$5,000

The funeral expenses, as a community debt, were properly reported at 50% and the other administration expenses were properly reported at 100%.

(ii) **Mortgages and liens on real property.** Real property listed on Schedule A should be reported at its fair market value without deduction of mortgages or liens on the property. Mortgages and liens are reported and deducted using Schedule K.

(iii) **Washington qualified terminable interest property (QTIP) election.**

(A) A personal representative may choose to make a larger or smaller percentage or fractional QTIP election on the Washington return than taken on the federal return in order to reduce Washington estate liability while making full use of the federal unified credit.

(B) Section 2056 (b)(7) of the Internal Revenue Code states that a QTIP election is irrevocable once made. For the taxpayer that makes this election, any amount deducted by reason of section 2056 (b)(7) of the Internal Revenue Code is added to, and the value of the property for which a Washington election is made is deducted from, the Washington taxable estate. 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. A QTIP election made on the Washington return is irrevocable, and a surviving spouse who is the lifetime beneficiary of property for which a Washington QTIP election was made must include the value of the remaining property in his or her gross estate for Washington estate tax purposes. If the value of property for which a federal QTIP election was made is different, this value is not includible in the surviving spouse's gross estate for Washington estate tax purposes; instead, the value of property for which a Washington QTIP election was made is includible.

(C) The Washington QTIP election must adequately identify the assets, by schedule and item number, included as part of the election, either on the return or, if those assets have not been determined when the estate tax return is filed, on a statement to that effect, prepared when the assets are definitively identified. Identification of the assets is necessary when reviewing the surviving spouse's return, if a return is required to be filed. This statement may be filed with the department at that time or when the surviving spouse's estate tax return is filed.

(iv) **Washington qualified domestic trust (QDOT) election.**

(A) A deduction is allowed for property passing to a surviving spouse who is not a U.S. citizen in a qualified domestic trust (a "QDOT"). An executor may elect to treat a trust as a QDOT on the Washington estate tax return even though no QDOT election is made with respect to the trust on the federal return; and also may forgo making an election on the Washington estate tax return to treat a trust as a QDOT even though a QDOT election is made with respect to the trust on the federal return. An election to treat a trust as a QDOT may not be made with respect to a specific portion of an entire trust that otherwise would qualify for the marital deduction, but if the trust is ac-

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tually severed pursuant to authority granted in the governing instrument or under local law prior to the due date for the election, a QDOT election may be made for any one or more of the severed trusts.

(B) A QDOT election may be made on the Washington estate tax return with respect to property passing to the surviving spouse in a QDOT, and also with respect to property passing to the surviving spouse if the requirements of section 2056 (d)(2)(B) of the Internal Revenue Code are satisfied. Unless specifically stated otherwise herein, all provisions of sections 2056(d) and 2056A of the Internal Revenue Code, and the federal regulations promulgated thereunder, are applicable to a Washington QDOT election. Section 2056A(d) of the Internal Revenue Code states that a QDOT election is irrevocable once made. Similarly, a QDOT election made on the Washington estate tax return is irrevocable. For purposes of this subsection, a QDOT means, with respect to any decedent, a trust described in section 2056A(a) of the Internal Revenue Code, provided, however, that if an election is made to treat a trust as a QDOT on the Washington estate tax return but no QDOT election is made with respect to the trust on the federal return:

(I) The trust must have at least one trustee that is an individual citizen of the United States resident in Washington state, or a corporation formed under the laws of the state of Washington, or a bank as defined in section 581 of the Internal Revenue Code that is authorized to transact business in, and is transacting business in, the state of Washington (the trustee required under this subsection is referred to herein as the "Washington Trustee");

(II) The Washington Trustee must have the right to withhold from any distribution from the trust (other than a distribution of income) the Washington QDOT tax imposed on such distribution;

(III) The trust must be maintained and administered under the laws of the state of Washington; and

(IV) The trust must meet the additional requirements intended to ensure the collection of the Washington QDOT tax set forth in (c)(iv)(D) of this subsection.

(C) The QDOT election must adequately identify the assets, by schedule and item number, included as part of the election, either on the return, or, if those assets have not been determined when the estate tax return is filed, or a statement to that effect, prepared when the assets are definitively identified. This statement may be filed with the department at that time or when the first taxable event with respect to the trust is reported to the department.

(D) In order to qualify as a QDOT, the following requirements regarding collection of the Washington QDOT tax must be satisfied.

(I) If a QDOT election is made to treat a trust as a QDOT on both the federal and Washington estate tax returns, the Washington QDOT election will be valid so long as the trust satisfies the statutory requirements of Treas. Reg. Section 20.2056A-2(d).

(II) If an election is made to treat a trust as a QDOT only on the Washington estate tax return, the following rules apply:

If the fair market value of the trust assets exceeds $2 million as of the date of the decedent's death, or, if applicable, the alternate valuation date, the trust must comply with Treas. Reg. Section 20.2056A-2 (d)(1)(i), except that: If the bank trustee alternative is used, the bank must be a bank that is authorized to transact business in, and is transacting business in, the state of Washington, or a bond or an irrevocable letter of credit meeting the requirements of Treas. Reg. Section 20.2056A-2 (d)(1)(i)(B) or (C) must be furnished to the department.

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If the fair market value of the trust assets is $2 million or less as of the date of the decedent's death, or, if applicable, the alternate valuation date, the trust must comply with Treas. Reg. Section 20.2056A-2 (d)(1)(ii), except that not more than 35 percent of the fair market value of the trust may be comprised of real estate located outside of the state of Washington.

A taxpayer may request approval of an alternate plan or arrangement to assure the collection of the Washington QDOT tax. If such plan or arrangement is approved by the department, such plan or arrangement will be deemed to meet the requirements of this (c)(iv)(D).

(E) The Washington estate tax will be imposed on:

(I) Any distribution before the date of the death of the surviving spouse from a QDOT (except those distributions excepted by section 2056A (b)(3) of the Internal Revenue Code); and

(II) The value of the property remaining in the QDOT on the date of the death of the surviving spouse (or the spouse's deemed date of death under IRC section 2056A (b)(4)). The tax is computed using Table W. The tax is due on the date specified in IRC section 2056A (b)(5). The tax shall be reported to the department in a form containing the information that would be required to be included on federal Form 706-QDT with respect to the taxable event, and any other information requested by the department, and the computation of the Washington tax shall be made on a supplemental statement. If Form 706-QDT is required to be filed with the Internal Revenue Service with respect to a taxable event, a copy of such form shall be provided to the department. Neither the residence of the surviving spouse or other QDOT beneficiary nor the situs of the QDOT assets are relevant to the application of the Washington tax. In other words, if Washington state estate tax would have been imposed on property passing to a QDOT at the decedent's date of death but for the deduction allowed by this subsection (c)(iv)(E)(II), the Washington tax will apply to the QDOT at the time of a taxable event as set forth in this subsection (c)(iv)(E)(II) regardless of, for example, whether the distribution is made to a beneficiary who is not a resident of Washington, or whether the surviving spouse was a nonresident of Washington at the date of the surviving spouse's death.

(F) If the surviving spouse of the decedent becomes a citizen of the United States and complies with the requirements of section 2056A (b)(12) of the Internal Revenue Code, then the Washington tax will not apply to: Any distribution before the date of the death of the surviving spouse from a QDOT; or the value of the property remaining in the QDOT on the date of the death of the surviving spouse (or the spouse's deemed date of death under section 2056A (b)(4) of the Internal Revenue Code).

(d) **Washington taxable estate.** The estate tax is imposed on the "Washington taxable estate." The "Washington taxable estate" is defined in WAC 458-57-105 (3)(t).

(e) **Federal taxable estate.** The "federal taxable estate" is defined in WAC 458-57-105 (3)(i).

(3) **Calculation of Washington's estate tax.**

(a) The tax is calculated by applying Table W to the Washington taxable estate.

Table W

(For deaths occurring on or after July 1, 2025, but before July 1, 2026)

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Washington Taxable Estate is at Least	But Less Than	The Amount of Tax Equals Initial Tax Amount	Plus Tax Rate %	Of Washington Taxable Estate Value Greater Than
$0	$1,000,000	$0	10.00%	$0
$1,000,000	$2,000,000	$100,000	15.00%	$1,000,000
$2,000,000	$3,000,000	$250,000	17.00%	$2,000,000
$3,000,000	$4,000,000	$420,000	19.00%	$3,000,000
$4,000,000	$6,000,000	$610,000	23.00%	$4,000,000
$6,000,000	$7,000,000	$1,070,000	26.00%	$6,000,000
$7,000,000	$9,000,000	$1,330,000	30.00%	$7,000,000
$9,000,000		$1,930,000	35.00%	$9,000,000

Table W

(For deaths occurring January 1, 2014 to June 30, 2025, and deaths on or after July 1, 2026, the amount of tax is the amount provided in the following table)

Washington Taxable Estate is at Least	But Less Than	The Amount of Tax Equals Initial Tax Amount	Plus Tax Rate %	Of Washington Taxable Estate Value Greater Than
$0	$1,000,000	$0	10.00%	$0
$1,000,000	$2,000,000	$100,000	14.00%	$1,000,000
$2,000,000	$3,000,000	$240,000	15.00%	$2,000,000
$3,000,000	$4,000,000	$390,000	16.00%	$3,000,000
$4,000,000	$6,000,000	$550,000	18.00%	$4,000,000
$6,000,000	$7,000,000	$910,000	19.00%	$6,000,000
$7,000,000	$9,000,000	$1,100,000	19.50%	$7,000,000
$9,000,000		$1,490,000	20.00%	$9,000,000

(b) Each year the department will publish each calendar year's "applicable exclusion amount." The "applicable exclusion amount" is adjusted annually and is defined in WAC 458-57-105 (3)(b).

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