

From: DOR Estate Tax
To: [David Moe](#)
Cc: [DOR Estate Tax](#)
Subject: RE: Ask a Quick Question online form
Date: Sunday, August 12, 2018 5:54:53 PM

Good Evening David,

The Department views:

- Real estate rentals held for investment as sourced to physical location of the real estate.
- Real estate rentals not held for investment by a real estate dealer (self-employment tax) as intangible business assets sourced to the state of decedent's domicile.

In the case of your client holding the rentals for investment, the Washington estate tax would be calculated off of net taxable estate, but the estate would then qualify to apportion (source the real estate away from Washington) by using [addendum #4](#).

Please email back if you have additional questions.

Sincerely,

Charles Wilson

Miscellaneous Tax Supervisor | Special Programs Division
Washington State Department of Revenue

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-----Original Message-----

From: David L. Moe, Attorney via Washington Department of Revenue
[\[mailto:websiteteam@dor.wa.gov\]](mailto:websiteteam@dor.wa.gov)

Sent: Monday, August 06, 2018 1:15 PM

To: DOR Communications <DORCommunications@DOR.WA.GOV>

Subject: Ask a Quick Question online form

Subject: Estate Tax, Washington Domiciliary, California Rental Real Property

QUESTION:

My estate planning client moved to Washington State within the last several years. She holds percentage interests in two multi-unit residential apartment buildings located in Southern California. She believes she is a limited partner in a limited partnership. She is not a general partner, and has no operational or management role. The general partner is an unrelated California person. Clearly the real property is located in California. She holds the asset for investment purposes, and receives income reported on Schedule E of her Federal income tax return. I find the "operated for a

true business purpose" test confusing in this context. Would this asset be subject to WA Estate Tax assuming she is domiciled in Washington upon her death?

SENDER INFORMATION

Name: David L. Moe, Attorney

Email: davidmoe@maplevalleylaw.com

Mailing Address:

22128 SE 237th Street

Maple Valley Washington 98038

Phone Number: (425) 432-1277, Ext.

Fax Number: (425) 432-1280

From: [David Moe](#)
To: "[Michelle Hulac-Morentin](#)"
Subject: RE: Confirming e-mail
Date: Monday, August 06, 2018 3:40:00 PM

Thank you, Michelle!

My main question is--in the event of Joan's death (while domiciled in Washington State) still owning her limited partnership interests in the two California real estate multi-tenant rental properties, could the properties be transferred to her children without ancillary probate proceedings in a California probate court? I understand California residents often are advised to use revocable living trusts to avoid California's probate system. If under California law, Joan's limited partnership interests are "intangible personal property" (like shares of stock, for example), then Washington law should govern distribution upon her death of those such intangible property. Typically, in that event Joan's Estate Executor would transmit to your company a certified death certificate, a Notarized Affidavit confirming Washington as her last state of domicile, and written instructions designating which persons receive her limited partnership percentage interests and in what portions. If we can't be confident an ancillary CA probate can be avoided without Joan placing her interests in the California Limited Partnerships into a living trust, I would need to advise Joan on that alternative. I would also need information from your firm on how to retitle the limited partnership interests or shares in such trust's name, to be sure we are compliant with the applicable limited partnership agreement(s),

Placing the limited partnership interests in a revocable trust could complicate an option that Joan (or the family member holding her durable financial power of attorney) might consider later, during her lifetime, to legally avoid or minimize Washington's Estate tax upon her death.

Washington State has a separate estate tax, applicable to portion of estates over the "exclusion amount" of \$2,193,000. The first \$1,000,000 above that exclusion amount would be taxed at the rate of 10%. Washington State currently has no gift tax. Unlike the federal death tax, Washington's estate tax is calculated without regard to inter vivos or lifetime gifts made by the decedent, at least where no federal estate tax comes into play. A Washington domiciliary (or her duly authorized agent) could make a substantial lifetime gift—even a "deathbed gift", to avoid Washington's death tax on the gifted amount. For example, assuming her net estate to be \$3,193,000 near the end of her life, she could advance a combined gift of, say, \$1,000,001—to her estate beneficiaries, thus bring her net estate within the exclusion amount, and legally avoiding a Washington estate tax bill of \$100,000.

This preceding paragraph raises my concern over whether Washington State regards Joan's California limited partnership interests a subject to inclusion for determining Washington Estate tax. The Washington estate tax clearly does not apply to "personal-use" out-of-state real property, such as a vacation home or second home, held in a deeded form of ownership. It's not as clear with respect to Real property held solely for investment purposes—but it purports tax out-of-state real property held in an LLC or partnership form of ownership and "*operating for a true business purpose.*" It regards the latter as intangible personal property, and subject to the laws of the state of domicile. I have already spoken to Washington DOR Estate Tax counsel for clarification. I am

awaiting their reply. I will not be surprised if they consider these assets intangible personal property, and thus subject to inclusion for Washington estate tax calculation.

These links are to the Washington Department of Revenue Estate Tax pages:

<https://dor.wa.gov/find-taxes-rates/other-taxes/estate-tax/estate-tax-apportionment-out-state-property>

<https://dor.wa.gov/find-taxes-rates/other-taxes/estate-tax-tables#FilingThreshold>

Thank you again for returning my call so promptly. I apologize for this overlong email.

Dave Moe

David Moe Attorney, P.S.

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From: Michelle Hulac-Morentin <michelle@suretygrp.com>

Sent: Monday, August 06, 2018 1:43 PM

To: David Moe <davidmoe@maplevalleylaw.com>

Subject: Confirming e-mail

Dear David,

It was nice speaking with you this afternoon. Please confirm that you have received this email. I will reach out to our attorney today.

Best Regards,

--

Michelle Hulac-Morentin
Vice President

Surety Group, Inc.

Mary Ann's Notes Red 8-8-18
Greg Gase (Returned/Amo Written
Question)



Franklin + Bennett
Partnerships

805 389 7374

Basic

no need to propagate
in California

Can transfer title through
testamentary docs

Pg I
2017

ASSETS

JOAN FLYNN MOOR
425-358-7591 = hm.
253-948-2119 = cell

1. HOME: my name only: Joan Flynn Moore = 303,500
21732 S.E. 272nd Pl.
Maple Valley, WA 98038

2. Bank of America:

amt. varies	checking acct #0000	1198	Amt = 7700 ⁰⁰
	Regular Savings #1380	1198	= 167 ⁰⁰
	Rewards Money Mkt. Sav. #1381	3554	= 71,000 ⁰⁰

3. Boeing Employees Credit Union (Becu) see pg IV

amt varies	Member Share Savings #	5751	= 107 ⁰⁰
	Money Mkt #	4437	= 291,000 ⁰⁰

4. DWS Investments (Deutsche Asset Mgmt)

amt. varies	Primary Acct. #	8408	= 232,000 ⁰⁰
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Deutsche SE 500 Index Fund 2301/158398408

Deutsche Cor Equity Fund 2064/158398408

Deutsche Capital Growth Fund 2398/ 00147 } IRA Accts

Deutsche Core Equity Fund 2064/3 00147 }

IRA accts:

I take
required
minimum
distribution
in Oct. ea. yr.

5. Synchrony Bank (formally G.E. Capital Retail Bank)

CD acct #5004299375 (maturity date 07/17/2017)

12 month CD = 64,000⁰⁰

6. Boeing Stock Certificates are being "held" by my
brokerage firm (Morgan Stanley) for "safe keeping"

acct #135-116688-116 = 180 shares

+ 54 shares = 32,000⁰⁰

Pg II
CO #4
2017

ASSETS

JOAN FLYNN MOORE
425-358-7591 - h.m.
253-948-2119 - ce 11

cont'd 7. MORGAN STANLEY:

accts# 135-116688-116 Active Assets Acct.

accts# 135-012138-116 Fiduciary Services

accts# 135-012152-116 " "

accts# 135-012156-116 Portfolio Mgmt.

accts# 135-012157-116 Fiduciary Services

there are three more #'s under Joan Flynn Moore:

accts# 135-021153-116

accts# 135-021786-116

accts# 930-010239-116

= \$856,000⁰⁵

8. RAYMOND James:

acct# 82515625

= \$153,000

This acct is with brokerage firm:

"Wigren, Christofferson, Wigren" / tele# 425-451-8508

9. Scerety Property Group, INC.: tele# 818-885-7883

28720 Roadside Dr. Suite 352

Agoura Hills, CA 91301

Michelle Hulac-Morentin, V.P., Gen'l Mgr.

This is a "Limited Partnership": Edward Hulac^{gr} ptnr

2 apartments: (a) "Palm Royal" = 42 units = $\frac{\text{my share}}{16\frac{5}{8}\%}$

(b) "Franklin" = 13 units = 25%

I had an appraisal done few yrs ago. Appraised, at that time, for more than \$800,000. Partnership papers say Ed Hulac, as Gen'l ptnr. has "first right of refusal" (on possible sale), then four (4)

PG
111
Come from
Pg 21

Assets

John Flynn Moore
425-388-7591
253-948-2119 ca

9. Surety Property Group, Inc.
limited partners had "right of refusal." No one wanted to buy my percentage of either building (too expensive, I guess) I called "Michelli", gen'l ptrn & V.P. of SPN (Ed's daughter) and I have her promise of "no problem." On my demise, SPN will divide each check that I would have received (3-4 yrs ago) (my % of profit from the two buildings) to guarantee that each of my children: Christine Brown, Barbara Halloway, Robert J. Flynn, John M. Flynn and Susan Schmidt, will receive one-fifth ($1/5$) of the total amount of the check. When the two buildings are sold, Robert, as my personal representative, will receive my shares to be divided between my five children in equal shares. This "limited Partnership" earns me, at least \$60,000⁰⁰, a year.

10. Annuity: "Met Life" NON TAXABLE
Amount: \$1000 per mo.
TOTAL: \$12000 per yr.
This annuity is part of the settlement with "Group Health". It stops on my demise.

cont of pg IV
pg IV
IV

ASSETS

Joan Flynn Moore
425-358-7591 h
253-948-2119 ce

11. Social Security: (direct deposit to BOA)
I collect on the account of \$1422⁰⁰ per mo
William A. Moore (as of 11/2016)
SS # 019-24-5640 (my S.S.#)
SS # 516-28-0424 (Bill's SS#)

TOTAL: \$17,064⁰⁰ (2011)

12. Principal Life Ins Co. (direct deposit to BOA)
Amount: \$155²⁸ per mo. TOTAL: \$1863³⁶
this acct. is very small "pension" from Mex/act

13. BECU (Boeing Employees Credit Union)
P.O. Box 97050
Seattle, WA. 98124-9750
tel # 206-439-5700 / 800-233-2328
acct. name: Joan F. Moore (mother's name "McCabe")
acct # 3558875751 (Member share sav.) = \$106⁰⁰
acct # 3573814437 (Money Mkt: checking acct) = \$291,000

Noted
twice

14. KHD Humboldt Wedag Gril, Ltd. (aka Mellon Investor Service)
ID # 019-24-5640 (shares under Joan M. Flynn)
Investor ID # 124828178243
Total Distrib. Date Shares 694
(this co. is now located in Germany)

15. Pioneer Natural Resources Co.
acct # 6000079455
Shares = 473 (small div pd.)

Assets

16. Synchrony Bank

12 mo CD acct # 7000216676

maturity date: 2/15/2019

= 60,290.00

17. Beal Bank USA Bellevue Branch

12 mo. CD # 4190738178

maturity date: 7/13/2019

= 40,000.00