



Montgomery Purdue PLLC
701 Fifth Avenue
Suite 5500
Seattle, WA 98104-7096
(206) 682-7090 TEL
(206) 625-9534 FAX

Hon. Rep. Chipalo Street
Chipalo.Street@leg.wa.gov

Hon. Sen. Claudia Kauffman
claudia.kauffman@leg.wa.gov

Hon. Sen. Vandanna Slatter
Vandana.Slatter@leg.wa.gov

Hon. Sen. Manka Dhingra
Manka.Dhingra@leg.wa.gov

Hon. Sen. Marko Liias
marko.liias@leg.wa.gov

Hon. Rep. Edward Orcutt
ed.orcutt@leg.wa.gov

Dear Representatives and Senators Street, Kauffman, Slatter, Dhingra, Liias, and Orcutt:

It was disappointing to see that the legislature, via Representative Street's amendment to ESB 6347, is seeking to unwind the increased estate tax applicable exclusion amount implemented by ESSB 5813 just last year. We continue to support that increase for the reasons expressed in the enclosed letter (the "Berg/Orcutt Letter"). However, in suggesting a return to RCW 83.100.020's text existing prior to ESSB 5813, Representative Street's amendment has proposed a change whereby the estate tax applicable exclusion amount will prospectively be indexed to the non-existent "Seattle-Tacoma-Bremerton" CPI reference discussed in the Berg/Orcutt Letter. Representative Orcutt explicitly objected to the inclusion of this erroneous CPI reference in this week's hearing. Despite this objection, it appears that amendment passed out of the finance committee with that error included.

We hope the legislature will abandon this attempt to revert back to exclusion levels first set in place nearly a decade ago. This proposed reduction removes the previously enacted ESSB 5813 increase which accounted for the substantial rise in cost of living since that time, and faithfully implemented prior legislative intent. Washington taxpayers were not granted the benefit of the inflation adjustments from 2018-2025. The applicable exclusion amount was frozen at \$2.193 million because of the Department of Revenue's interpretation of the reference to a non-existent CPI. However, inflation adjustments should have been made each year. The adjustment of the applicable exclusion amount to \$3 million by ESSB 5813 rectified the loss of that benefit to which taxpayers were entitled under the clear language of the applicable statute. Accordingly,

amended ESB 6347's proposed exclusion decrease back to 2018 levels amounts to a substantial tax increase upon Washington state taxpayers.

Moreover, since the legislature is expressly aware that the reference to the Seattle-Tacoma-Bremerton CPI index in the ESB 6347 amendment is nonexistent, we believe it sends a poor message to Washington state voters that lawmakers would knowingly enact legislation purposefully intended to confuse taxpayers over the existence and proper application of an inflationary increase. Because the Department of Revenue has already indicated it believes a reference to the Seattle-Tacoma-Bremerton CPI index means no inflationary increases are applicable, and because the legislature would expressly be confirming in ESB 6347 that inflationary increases "must be made annually," the proposed language will create inevitable litigation between Washington state taxpayers and the Department of Revenue over proper application of this language. Washington state taxpayers deserve better than to intentionally¹ be placed in that position by its elected representatives.

We respectfully request that (1) under all circumstances, any reference to a CPI index in any estate tax legislation be revised to cover the current applicable index, e.g., "the then-current index applicable to the Seattle metropolitan area," and (2) that the applicable exclusion amount remain at \$3M adjusted annually for inflation.

Respectfully submitted,



Ryan L. Montgomery
WSBA #34224



Liberty Upton
WSBA # 47140



Brent Williams-Ruth
WSBA # 32437



Anna M. Cashman
WSBA # 41782



Jessica A. Carr
WSBA #43439

¹The fiscal note for the amended bill explicitly states that no inflation adjustments will be made. It is misleading to the people of the state of Washington for its lawmakers to enact a law that expressly states an inflation adjustment "must" be made, when no such adjustment will be implemented by the Department of Revenue in reality.