



# Initiative Measure 402

TO THE PEOPLE

**Official Ballot Title:**  
Shall inheritance and gift taxes be abolished, and state death taxes be restricted to the federal estate tax credit allowed?

## The law as it now exists:

The State of Washington currently imposes inheritance taxes on both transfers of property resulting from the death of a Washington resident and transfers of certain in-state property of a non-resident decedent. Inheritance taxes may also be imposed on certain transfers made prior to and in contemplation of death. In addition and for comparison, the state imposes a gift tax on transfers of property made during a donor's lifetime.

The inheritance tax is imposed on beneficiaries of the estate. The amount of inheritance tax on any particular transfer depends on the relationship of each beneficiary to the decedent and the value of the property transferred.

Federal law also imposes a tax on transfers by gift or inheritance and allows a credit against such federal estate tax for a portion of the state's inheritance tax.

State inheritance tax collections for fiscal year 1981 approximated \$52 million or 2% of the state's general fund revenue for the period. In excess of two-thirds of the decedents' estates which reported to the Department of Revenue in 1981 paid no state inheritance taxes.

## The effect of Initiative 402, if approved into law:

This initiative would repeal the state's existing inheritance and gift tax laws and would substitute, in their stead, a tax on the transfer of the net estate of a resident decedent and on the transfer of certain in-state property of a non-resident decedent. Only estates liable for federal estate tax would be subject to tax under the initiative and the amount of the tax would be limited to the credit allowable against the federal tax.

The impact of the initiative on a particular estate transfer would vary depending upon the relationship of the recipient to the decedent. Since the initiative eliminates the distinction between classes of beneficiaries, it will have a lesser impact on beneficiaries more closely related to decedent who receive higher exemptions and lower rates under present state law. The initiative will have a greater impact on unrelated or more distantly related beneficiaries who receive no exemption and pay tax at the highest rate under current state law.

The adoption of the tax contained in the initiative together with recent increases in the federal estate tax exemptions would operate to reduce the number of estates in which transfers are now taxable under present state law, and, in most other cases, to lower the level of taxation on those estates, which remain taxable, below that imposed under the current state rate structure. The amount of the corresponding reduction in tax revenues which would otherwise be collected under the state's existing inheritance and gift tax laws cannot be estimated with precision.

NOTE: The ballot title and explanatory statement were written by the Attorney General as required by state law. The complete text of Initiative Measure 402 begins on page 15.

## Statement for

### DEATH TAXES ARE CRUEL

"What I needed when my husband died was a big hug. Instead these vultures swooped in demanding thousands of dollars."

—Veronica Booker, Seattle widow

### OUR ESTATES HAVE ALREADY BEEN TAXED

A couple has the right to pass on to their children the fruits of a lifetime of work. Their home and their savings have been hard-earned. It belongs to them—not the tax collector.

### THE INHERITANCE TAX IS UNJUST

A child has the right to continue a small family business or



the family farm without having to sell the property to large corporations or foreign investors in order to pay inheritance tax.

A tax that destroys these basic rights is unjust.

## Rebuttal of Statement against

Opponent's arguments are false and misleading. *This tax is hardest on average, middle-income working men and women!* While it's true there will be a gradual phasing out of the tax on spouses, there is no provision to phase out this hurtful tax on children, relatives, or friends. *If your estate is worth \$10,500 or more it is subject to inheritance tax!* (Inheritance Tax Law Schedule, Department of Revenue) A yes vote for 402 will create jobs and generate additional tax revenue by attracting investments into Washington and halting the outflow of business and retirement dollars.

### Voters Pamphlet Statement Prepared by:

DICK PATTEN, Chairman, Committee for Initiative 402; MIKE PATRICK, State Representative; KENT PULLEN, State Senator.

Advisory Committee: MRS. R. E. VAN VALKENBURGH, Washington State Federation of Women's Clubs; DON AHRENHOLTZ, Washington State Farm Bureau; LLOYD GARDNER, Citizen Taxpayers Association; WARREN McPHERSON; RANDY RAY, Washington Association of Wheat Growers.

## Statement against

### A TAX BREAK FOR THE WEALTHY

Initiative 402 would give tax relief to a small number of very wealthy individuals at the expense of low and middle income people. Over 70 percent of all estates now pass tax free in Washington. Our state inheritance tax system was thoroughly revised in 1979 to provide generous exemptions for spouses, children, family farms, and life insurance proceeds. By 1983, an estate of \$940,000 will pass tax free. All community property will pass tax free to a surviving spouse by 1984. 402 will benefit only a very few wealthy individuals.

### MORE CUTS OR HIGHER TAXES?

Washington's schools and senior citizens will be hurt by 402. Over \$140,000,000 will be lost to Washington by 1984 without creating one job or helping a middle income person. 402 would repeal a fair tax paid by those who can afford it. The state budget was cut by twelve percent in 1981. The economy and revenues are down. 402 means either more cuts or increases in less fair taxes.

### LOCAL—NOT FEDERAL—CONTROL

Do you want Washington, D.C. to determine our state tax levels? That is exactly what would happen if 402 passes. The amount of Washington's inheritance tax would be determined by the IRS and Congress. Let's keep control. 402 is the wrong approach, at the wrong time, for the wrong reasons.

## Rebuttal of Statement for

By using an emotional harangue and ignoring facts, the proponents would have you believe what is not true.

Our system is fair. 1979 changes in state law make certain no Washingtonian is in danger of losing a home or farm because of inheritance taxes. Nobody has to pay their tax in less than nine months and a ten year deferral for hardships is allowed. Don't be misled by deceptive emotionalism. Vote NO on 402.

### Voters Pamphlet Statement Prepared by:

GEORGE SCOTT, State Senator; JOANNE BREKKE, State Representative; NORM SCHUT, President, Senior Citizens Lobby.

Advisory Committee: GEORGE KINNEAR, Former Director, Department of Revenue; ROBERT S. O'BRIEN, State Treasurer; WILLIAM ANDERSON, University of Washington School of Law.

construction of all or a portion of the project, the anticipated total cost of construction of the project;

(e) The projected average rate increase for consumers of the electricity to be generated by the project. The rate increase shall be that which will be necessary to repay the total indebtedness incurred for the project, including estimated interest;

(f) A summary of the final cost-effectiveness study conducted under subsection (4) of this section;

(g) The anticipated functional life of the project;

(h) The anticipated decommissioning costs of the project; and

(i) If a special election is requested by the applicant, the reasons for requesting a special election.

**NEW SECTION.** Sec. 6. The proposition for each major public energy project listed upon a ballot pursuant to this chapter shall be in the form provided in this section.

(1) If the funds are intended to finance the planning or construction of all or a portion of the project, the proposition shall read substantially as follows:

"Shall (name of applicant) be authorized to spend (dollar amount of financing authority requested) to construct the (name of the project) (type of project) located at (location), the anticipated total construction cost of which is (anticipated cost of construction)?"

(2) If the financing authority is intended to finance the acquisition of all or a portion of the project from another party, the proposition shall read substantially as follows:

"Shall (name of applicant) be authorized to spend (dollar amount of financing authority requested) to acquire the (name of project) (type of project) located at (location), the anticipated total acquisition cost of which is (anticipated cost of acquisition)?"

**NEW SECTION.** Sec. 7. A request for financing authority pursuant to this chapter shall be considered approved if it receives the approval of a majority of those voting on the request.

**NEW SECTION.** Sec. 8. In planning for future energy expenditures, public agencies shall give priority to projects and resources which are cost-effective. Priority for future bond sales to finance energy expenditures by public agencies shall be given: First, to conservation; second, to renewable resources; third, to generating resources utilizing waste heat or generating resources of high fuel-conversion efficiency; and fourth, to all other resources. This section does not apply to projects which are under construction on the effective date of this section.

**NEW SECTION.** Sec. 9. Sections 1 through 8 of this act shall constitute a new chapter in Title 80 RCW.

**NEW SECTION.** Sec. 10. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION.** Sec. 11. Section 8 of this act shall take effect immediately. The remainder of this act shall take effect on July 1, 1982. Public agencies intending to submit a request for financing authority under this act are authorized to institute the procedures specified in section 5(4) of this act prior to the effective date of this act.

## Initiative Measure 402

AN ACT Reforming gift and inheritance taxation; adding a new chapter to Title 83 RCW to be designated chapter 83.100 RCW; creating new sections; repealing chapters 83.01, 83.04, 83.05, 83.08, 83.12, 83.14, 83.16, 83.20, 83.24, 83.28, 83.32, 83.36, 83.40, 83.44, 83.48, 83.52, 83.58, 83.60, and 83.98 RCW; prescribing penalties; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

**NEW SECTION.** Sec. 83.100.010. SHORT TITLE. This chapter may be cited as the "Estate and Transfer Tax Reform Act of 1981."

**NEW SECTION.** Sec. 83.100.020. DEFINITIONS. As used in this chapter:

(1) "Decedent" means a deceased individual;

(2) "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;

(3) "Federal credit" means the maximum amount of the credit for estate death taxes allowed by section 2011 for the decedent's net estate;

(4) "Gross estate" means "gross estate" as defined and used in section 2031 of the United States Internal Revenue Code of 1954, as amended or renumbered;

(5) "Net estate" means "taxable estate" as defined in section 2051 of the United States Internal Revenue Code of 1954, as amended or renumbered;

(6) "Nonresident" means a decedent who was domiciled outside Washington at his death;

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

(8) "Personal representative" means the executor or administrator of a decedent or, if no executor or administrator is appointed, qualified, and acting, any person who has possession of any property;

(9) "Property" means property included in the gross estate;

(10) "Release" means a release of no tax due or a receipt for payment of the tax due under this chapter;

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

(12) "Section 2011" means section 2011 of the United States Internal Revenue Code of 1954, as amended or renumbered; and

(13) "Transfer" means "transfer" as defined and used in section 2001 of the United States Internal Revenue Code of 1954, as amended or renumbered.

**NEW SECTION.** Sec. 83.100.030. RESIDENTS—TAX IMPOSED—CREDIT FOR TAX PAID OTHER STATE. (1) A tax in an amount equal to the federal credit is imposed on the transfer of the net estate of every resident.

(2) If any property of a resident is subject to a death tax imposed by another state for which a credit is allowed by section 2011, and if the tax is imposed by the other state is not qualified by a reciprocal provision allowing the property to be taxed in the state of decedent's domicile, the amount of the tax due under this section shall be credited with the lesser of:

(a) The amount of the death tax paid the other state and credited against the federal estate tax; or

(b) An amount computed by multiplying the federal credit by a fraction, the numerator of which is the value of the property subject to the death tax imposed by the other state, and the denominator of which is the value of the decedent's gross estate.

**NEW SECTION.** Sec. 83.100.040. NONRESIDENTS—TAX IMPOSED—EXEMPTION. (1) Tax in an amount computed as provided in this section is imposed on the transfer of the net estate located in Washington of every nonresident.

(2) The tax shall be computed by multiplying the federal credit by a fraction, the numerator of which is the value of the property located in Washington, and the denominator of which is the value of the decedent's gross estate.

(3) The transfer of the property of a nonresident is exempt from the tax imposed by this section to the extent that the property of residents is exempt from taxation under the laws of the state in which the nonresident is domiciled.

**NEW SECTION.** Sec. 83.100.050. TAX REPORTS—DATE TO BE FILED—EXTENSIONS. (1) The personal representative of every estate

subject to the tax imposed by this chapter who is required by the laws of the United States to file a federal estate tax return shall file with the department on or before the date the federal estate tax return is required to be filed, including any extension of time for filing the federal estate tax return:

- (a) A report for the taxes due under this chapter; and
- (b) A true copy of the federal estate tax return.

(2) If the personal representative has obtained an extension of time for filing the federal return, the filing required by subsection (1) of this section shall be similarly extended until the end of the time period granted in the extension of time for the federal return. A true copy of the extension shall be filed with the department within thirty days of issuance.

(3) No Washington report need be filed if the estate is not subject to the tax imposed by this chapter.

(4) If the estate is not subject to the tax imposed by this chapter, the personal representative may apply to the department for the automatic issuance of a release of nonliability. The release, when issued, shall indicate it has been determined that the estate is not subject to the tax and that the estate and the personal representative are free of any claim by the state for taxes owed under this chapter.

**NEW SECTION.** Sec. 83.100.060. DATE PAYMENT DUE—DATE DEEMED RECEIVED. (1) The taxes imposed by this chapter shall be paid by the personal representative to the department on or before the date the return for the taxes is required to be filed under RCW 83.100.050.

(2) For the purposes of this chapter, a return or payment delivered to the department by United States mail shall be considered to have been received by the department on the date of the United States postmark stamped on the cover in which the payment or the request for release of nonliability is mailed, if the postmark date is within the time allowed for filing the return or making the payment, including any extensions.

**NEW SECTION.** Sec. 83.100.070. INTEREST ON AMOUNT DUE—EXTENSION OF TIME TO FILE FEDERAL RETURN. (1) Any tax due under this chapter which is not paid by the time prescribed for the filing of the report as provided in RCW 83.100.050, not including any extensions in respect to the filing of the report or the payment of the tax, shall bear interest at the rate of twelve percent per annum from the date any tax is due until paid.

(2) If the report provided for in RCW 83.100.050 is not filed within the time periods specified, then the personal representative shall pay, in addition to the interest provided in this section, a penalty equal to five percent of the tax due in respect to the transfer for each month beyond the time periods that the report has not been filed, but no penalty so imposed may exceed a total of twenty-five percent of the tax.

(3) If the personal representative has obtained an extension of time for payment of the federal tax, the personal representative may elect to extend the time for payment of the tax due under this chapter in accordance with the extension. The election shall be made by filing a true copy of the extension of time for payment with the report and the returns required under RCW 83.100.050.

**NEW SECTION.** Sec. 83.100.080. DEPARTMENT TO ISSUE RELEASE—FINAL SETTLEMENT OF ACCOUNT. (1) The department shall issue an automatic release to the personal representative when:

(a) No taxes imposed by this chapter are due and upon the receipt of a request for a release of nonliability, if the release includes the sworn statement of the personal representative that in fact no taxes are due; or

(b) The taxes due under this chapter have been paid as prescribed in RCW 83.100.050, and the request for a release includes the sworn statement of the personal representative that in fact all taxes due have been paid.

(2) The obtaining of this release shall give to the personal repre-

sentative sufficient authority to effectuate the transfer of all property composing the decedent's estate.

**NEW SECTION.** Sec. 83.100.090. AMENDED RETURNS—FINAL DETERMINATION. (1) If the personal representative files an amended federal return, the personal representative shall immediately file with the department an amended Washington report with a true copy of the amended federal return. If the personal representative is required to pay an additional tax under this chapter pursuant to the amended return, the personal representative shall pay the additional tax, together with interest as provided in RCW 83.100.070, at the same time the personal representative files the amended return, subject, however, to any extension election under RCW 83.100.070.

(2) Upon final determination of the federal tax due with respect to any transfer, the personal representative shall, within sixty days after the determination, give written notice of it to the department in such form as may be prescribed by rule. If any additional tax is due under this chapter by reason of the determination, the personal representative shall pay the same, together with interest as provided in RCW 83.100.070, at the same time he files the notice, subject, however, to any extension election under RCW 83.100.070.

**NEW SECTION.** Sec. 83.100.100. ADMINISTRATION—RULES. The department shall adopt such rules as may be necessary to carry into effect the provisions of this chapter, including rules relating to the return for taxes due under this chapter. The rules shall have the same force and effect as if specifically set forth in this chapter, unless declared invalid by a judgment of a court of record not appealed from.

**NEW SECTION.** Sec. 83.100.110. SALE OF PROPERTY TO PAY TAX—CREATION OF LIEN. (1) A personal representative may sell so much of any property as is necessary to pay the taxes due under this chapter. A personal representative may sell so much of any property specifically bequeathed or devised as is necessary to pay the proportionate amount of the taxes due on the transfer of the property and the fees and expenses of the sale, unless the legatee or devisee pays the personal representative the proportionate amount of the taxes due.

(2) Unless any tax due is sooner paid in full, it shall be a lien upon the gross estate of the decedent for a period of ten years from the date of death, except that such part of the gross estate as is used for the payment of charges against the estate and expenses of its administration, allowed by any court having jurisdiction thereof, shall be divested of the lien. Liens created under this subsection shall be qualified as follows:

(a) The limitation period, as described in this subsection, shall in each case be extended for a period of time equal to the period of pendency of litigation of questions affecting the determination of the amount of tax due, provided a lis pendens has been filed with the auditor of the county in which the property is located;

(b) Any part of the gross estate which is transferred to a bona fide purchaser shall be divested of the lien and the lien shall be transferred to the proceeds arising out of the transfer; and

(c) A mortgage on property pursuant to an order of court for payment of charges against the estate and expenses of administration shall constitute a lien upon the property prior and superior to the tax lien, which tax lien shall attach to the proceeds.

**NEW SECTION.** Sec. 83.100.120. LIABILITY FOR FAILURE TO PAY TAX BEFORE DISTRIBUTION OR DELIVERY. (1) Any personal representative who distributes any property without first paying, securing another's payment of, or furnishing security for payment of the taxes due under this chapter is personally liable for the taxes due to the extent of the value of any property that may come or may have come into the possession of the personal representative. Security for payment of the taxes due under this chapter shall be in an amount equal to or greater than the value of all property that is or has come into the possession of the personal representative, as of the time the security is furnished.

(2) Any person who has the control, custody, or possession of any property and who delivers any of the property to the personal representative or legal representative of the decedent outside Washington without first paying, securing another's payment of, or furnishing security for payment of the taxes due under this chapter is liable for the taxes due under this chapter to the extent of the value of the property delivered. Security for payment of the taxes due under this chapter shall be in an amount equal to or greater than the value of all property delivered to the personal representative or legal representative of the decedent outside Washington by such a person.

(3) For the purposes of this section, persons who do not have possession of a decedent's property include anyone not responsible primarily for paying the tax due under this section or their transferees, which includes but is not limited to mortgagees or pledgees, stockbrokers or stock transfer agents, banks and other depositories of checking and savings accounts, safe-deposit companies, and life insurance companies.

(4) For the purposes of this section, any person who has the control, custody, or possession of any property and who delivers any of the property to the personal representative or legal representative of the decedent may rely upon the release certificate or the release of nonliability certificate, furnished by the department to the personal representative, as evidence of compliance with the requirements of this chapter, and make such deliveries and transfers as the personal representative may direct without being liable for any taxes due under this chapter.

**NEW SECTION.** Sec. 83.100.130. REFUND FOR OVERPAYMENT. Whenever it is determined that a personal representative has overpaid the tax due under this chapter, the department may refund the amount of the overpayment, together with interest at the then existing statutory rate of interest. No claim for refund may be initiated more than one year after the date of the federal tax has been first paid.

**NEW SECTION.** Sec. 83.100.140. CRIMINAL ACTS RELATING TO ESTATE TAX RETURNS. Any person who wilfully fails to file a Washington estate tax return when required by this chapter or who wilfully files a false return commits a gross misdemeanor as defined in chapter 9A RCW and shall be punished as provided in Title 9A RCW for the perpetration of a gross misdemeanor.

**NEW SECTION.** Sec. 83.100.150. ADMINISTRATION BY DEPARTMENT—ACTION FOR COLLECTION OF TAX—APPEAL. (1) The department may collect the tax provided for in this chapter, including applicable interest and penalties, and shall represent this state in all matters pertaining to the same, either before courts or in any other manner. The department, through the attorney general, may institute proceedings for the collection of this tax and any interest and penalties on the tax. The superior court for any county which has assumed lawful jurisdiction over the property of the decedent for general probate or administration purposes under the laws of Washington shall have jurisdiction to hear and determine all questions in relation to the tax arising under the provisions of this chapter. If no probate or administration proceedings have been taken out in any court of this state, the superior court for the county in which the decedent was a resident, if the decedent was a domiciliary, or, if the decedent was a nondomiciliary, any court which has sufficient jurisdiction over the property of the decedent, the transfer of which is taxable, to issue probate or administration proceedings thereon, had the same been justified by the legal status of the property or had the same been applied for, shall have jurisdiction. Any such court first acquiring jurisdiction shall retain the same to the exclusion of every other.

(2) Nothing in this chapter denies the right of appellate review as provided by law and the Washington appellate rules.

**NEW SECTION.** Sec. 83.100.160. (1) The following chapters and their session law bases are each repealed: Chapters 83.01, 83.04, 83.05, 83.08, 83.12, 83.14, 83.16, 83.20, 83.24, 83.28, 83.32, 83.36, 83.40, 83.44, 83.48, 83.52, 83.58, 83.60, and 83.98 RCW.

(2) These repeals shall not be construed as affecting any existing right acquired under the statutes repealed or under any rule, regulation, or order adopted pursuant thereto; nor as affecting any proceeding instituted thereunder.

**NEW SECTION.** Sec. 83.100.170. As used in this act, section captions constitute no part of the law.

**NEW SECTION.** Sec. 83.100.180. Sections 83.100.010 through 83.100.150 of this act shall constitute a new chapter in Title 83 RCW to be designated chapter 83.100 RCW.

**NEW SECTION.** Sec. 83.100.190. This act shall take effect January 1, 1982.

## Senate Joint Resolution 107

BE IT RESOLVED, BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF WASHINGTON, IN LEGISLATIVE SESSION ASSEMBLED:

THAT, At the next general election to be held in this state there shall be submitted to the qualified voters of the state for their approval and ratification, or rejection, an amendment to Article IV, section 23 of the Constitution of the state of Washington to read as follows:

Article IV, section 23. There may be appointed in each county, by the judge of the superior court having jurisdiction therein, one or more court commissioners(~~not exceeding three in number,~~) as provided by law who shall have authority to perform (like duties as a judge of the superior court at chambers, subject to revision by such judge, to take depositions and to perform) such (other) business connected with the administration of justice as may be prescribed by law.

BE IT FURTHER RESOLVED, That the secretary of state shall cause notice of the foregoing constitutional amendment to be published at least four times during the four weeks next preceding the election in every legal newspaper in the state.

## Senate Joint Resolution 133

BE IT RESOLVED, BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF WASHINGTON, IN LEGISLATIVE SESSION ASSEMBLED:

THAT, At the next general election to be held in this state there shall be submitted to the qualified voters of the state for their approval and ratification, or rejection, an amendment to Article II, sections 1 and 1(a) of the state Constitution to read as follows:

Article II, section 1. The legislative authority of the state of Washington shall be vested in the legislature, consisting of a senate and house of representatives, which shall be called the legislature of the state of Washington, but the people reserve to themselves the power to propose bills, laws, and to enact or reject the same at the polls, independent of the legislature, and also reserve power, at their own option, to approve or reject at the polls any act, item, section, or part of any bill, act, or law passed by the legislature.

(a) Initiative: The first power reserved by the people is the initiative. (~~Ten per centum, but in no case more than fifty thousand, of the legal voters shall be required to propose any measure by such petition, and~~) Every such petition shall include the full text of the measure so proposed. In the case of initiatives to the legislature and initiatives to the people, the number of valid signatures of legal voters required shall be equal to eight percent of the votes cast for the office of governor at the last gubernatorial election preceding the initial filing of the text of the initiative measure with the secretary of state.

Initiative petitions shall be filed with the secretary of state not less than four months before the election at which they are to be voted upon, or not less than ten days before any regular session of the legislature. If filed at least four months before the election at which