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NO. 89419-1

SUPREME COURT OF THE STATE OF WASHINGTON

In re the Matter of the:

ESTATE OF HELEN M. HAMBLETON, Deceased.

STEVEN HAMBLETON in his capacity as personal representative of the
Estate of Helen M. Hambleton,

Respondent,

v.

THE DEPARTMENT OF REVENUE OF THE STATE OF
WASHINGTON,

Appellant.

**DEPARTMENT OF REVENUE'S ANSWER TO AMICUS BRIEF
OF DOT FOODS, INC.**

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 ORIGINAL

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I. INTRODUCTION

The legislature's 2013 amendments to the Washington estate tax satisfy the rational basis standard set out in *United States v. Carlton*, 512 U.S. 26, 114 S. Ct. 2018, 129 L. Ed. 2d 22 (1994) and followed by this Court in *W.R. Grace & Co. v. Dep't of Revenue*, 137 Wn.2d 580, 973 P.2d 1011 (1999). Accordingly, this Court should uphold those amendments.

Dot Foods contends that the pre-amendment estate tax statute was unambiguous and therefore the due process clause compels the Court to strike down any retroactive amendment to the law. But the United States Supreme Court in *Carlton*, and this Court in *W.R. Grace*, have both upheld the retroactive amendment of unambiguous tax laws.

Dot Foods presents no valid reason for distinguishing *Carlton* or *W.R. Grace*. No court has held that the due process clause prohibits the legislative branch from retroactively amending an unambiguous tax statute. Finally, the legislature did not "overrule" this Court's interpretation of the prior law as Dot Foods claims. Instead, the legislature affirmatively changed the law to close a significant and unintended loophole that permitted certain estates to escape the Washington estate tax. Closing a tax loophole to prevent the loss of tax revenue dedicated to education is a legitimate legislative purpose, and the legislature acted rationally when it closed that loophole for all estates.

II. ARGUMENT

A. The 2013 Act Meets The *Carlton* Rational Basis Standard

It is well settled that a tax statute is not unconstitutional merely because it is retroactive. *Welch v. Henry*, 305 U.S. 134, 146, 59 S. Ct. 121, 83 L. Ed. 87 (1938). Tax statutes, like economic legislation in general, are presumed to be constitutional, and “the burden is on [the] one complaining of a due process violation to establish that the legislature has acted in an arbitrary and irrational way.” *Usery v. Turner Elkhorn Mining Co.*, 428 U.S. 1, 15, 96 S. Ct. 2882, 49 L. Ed. 2d 752 (1976).

Retroactive tax legislation satisfies due process concerns if it is “supported by a legitimate legislative purpose furthered by rational means[.]” *United States v. Carlton*, 512 U.S. at 30-31 (quoting *Pension Benefit Guaranty Corp. v. R.A. Gray & Co.*, 467 U.S. 717, 729, 104 S. Ct. 2709, 81 L. Ed. 2d 601 (1984)). This is a highly deferential standard, as shown by the fact that the United States Supreme Court has repeatedly upheld retroactive tax legislation against due process challenges. *Id.* at 30 (citing cases). The 2013 Act meets this standard.

The rational basis test set out in *Carlton* is a “negative statement of the substantive due process requirement that legislation that does not affect a suspect classification or involve the deprivation of a fundamental right must merely bear a reasonable relation to a permissible legislative

objective.” *General Motors Corp. v. Dep’t of Treasury*, 290 Mich. App. 355, 803 N.W.2d 698, 710 (2010). Under the test, retroactive tax legislation (like economic legislation in general) need only be (1) supported by a legitimate legislative purpose and (2) furthered by rational means. With respect to the period of retroactivity, “[t]he pertinent question is whether the period . . . is one that makes sense in supporting the legitimate governmental purpose (rationally related).” *Miller v. Johnson Controls, Inc.*, 296 S.W.3d 392, 399 (Ky. 2009).

The 2013 Act easily meets the *Carlton* rational basis standard. The legislature enacted the law to avoid an unexpected loss of revenue to public school funding that would have resulted under the holding of *In re Estate of Bracken*, 175 Wn.2d 549, 290 P.3d 99 (2012). See Laws of 2013, 2d Spec. Sess., ch. 2, § 1. Preventing unanticipated revenue losses is a legitimate legislative purpose. *Carlton*, 512 U.S. at 32; *Montana Rail Link, Inc. v. United States*, 76 F.3d 991, 994 (9th Cir. 1996).

The legislature employed rational means to fix the unintended loophole recognized in *Bracken*. The legislature enacted the retroactive fix within months after the *Bracken* decision became final. In addition, the 2013 Act did not create a wholly new tax that estates could not have anticipated. Rather, the legislature amended the statutory definitions of “transfer” and “Washington taxable estate” to make the Washington estate

tax treatment of QTIP consistent with the federal treatment and to conform those key definitions to the perceived intent of the legislature when it amended the Washington estate tax in 2005 to change from the former pickup tax scheme to a stand-alone estate tax. *See* Laws of 2013, 2d Spec. Sess., ch. 2, § 1(5). Finally, the legislature limited the retroactive reach of the Act to the effective date of the 2005 amendment, May 17, 2005. By closing the QTIP loophole for all estates of decedents dying on or after May 17, 2005, the legislature “establish[ed] parity among taxpayers.” *W.R. Grace & Co. v. Dep’t of Revenue*, 137 Wn.2d at 603. A shorter period of retroactivity would have allowed some estates, but not others, to obtain the benefit of the unintended QTIP loophole recognized in *Bracken*.

As noted, sections 2 and 5 of the 2013 Act have a retroactive reach of approximately eight years, to May 17, 2005. Courts throughout the United States have approved the retroactive application of tax statutes for similar periods. *See* Appellant’s Br. at 23 (citing cases). For instance, the Ninth Circuit Court of Appeals in *Montana Rail* held that a federal tax statute passed in 1989 did not offend due process even though the law had a seven-year retroactive reach to 1983 and, as applied to Montana Rail, prevented a refund of railroad retirement taxes the company had paid

going back three years.¹ Applying the rational basis test set out in *Carlton*, the Court held that the act in question served the legitimate purpose of protecting the retirement funds of railroad workers. *Montana Rail*, 76 F.3d at 994. The Court also found that the retroactivity period was rationally related to that legitimate purpose. *Id.* The Court concluded that a shorter period of retroactivity “would have been arbitrary and irrational” because it would have hurt those workers that did not get the benefit of the retroactive law. *Id.*

Furthermore, the United States Supreme Court, in *General Motors Corp. v. Romein*, 503 U.S. 181, 112 S. Ct. 1105, 117 L. Ed. 2d 328 (1992), upheld retroactive economic legislation going back six years as being rational. In rejecting the petitioners’ due process argument, the Court explained that the “[t]he retroactive aspects of [economic] legislation, as well as the prospective aspects, must meet the test of due process: a legitimate legislative purpose furthered by rational means.” *Id.* at 191 (alterations in original; internal quotation marks omitted) (quoting *Pension Benefit Guaranty Corp.*, 467 U.S. at 730). The retroactive law at issue

¹ The act redefined “compensation” for purposes of the Railroad Retirement Tax Act to include amounts contributed to 401(k) retirement plans, and made the change retroactive as applied to “remuneration paid before January 1, 1990, which the employer treated as compensation when paid.” *Montana Rail*, 76 F.3d at 993 (internal quotation marks omitted). *Montana Rail* had paid tax totaling \$247,842.89 on amounts contributed to employee 401(k) plans in 1987 and 1988. *Id.* at 994. The retroactive amendment barred refund of that tax.

met that standard because it rationally achieved the legislature's legitimate objective of correcting "the unexpected results of" a decision of the Michigan Supreme Court. *General Motors Corp. v. Romein*, 503 U.S. at 191.

Likewise, the Washington legislature acted rationally and in pursuit of a legitimate purpose when it amended the Washington estate tax code retroactive to May 17, 2005, to ensure that QTIP does not escape the Washington tax. The 2013 Act satisfies the *Carlton* rational basis standard and should be upheld.

B. Courts Have Upheld Legislative Authority To Retroactively Amend Ambiguous And Unambiguous Statutes

Dot Foods contends that the reasonable expectations of taxpayers are set by unambiguous statutes and that the due process clause imposes a *per se* bar on retroactively amending "unambiguous" tax statutes. Amicus Br. at 7. This argument directly conflicts with decisions of this Court and the United States Supreme Court.

1. The Courts Have Expressly Held That Legislative Authority To Retroactively Amend Tax Statutes Is Not Limited By Taxpayer Expectations

There is no special or different due process test that applies to unambiguous tax legislation, as demonstrated by *Carlton* and by this Court's decision in *W.R. Grace*. Both cases applied the rational basis standard to uphold retroactive tax legislation, and neither case suggested

that the due process standard is different if the tax law being amended was previously held by a court to be unambiguous.

In *Carlton*, the U.S. Supreme Court upheld retroactive legislation closing a tax loophole that Congress estimated would cause a \$7 billion loss. *Carlton*, 512 U.S. at 32. Prior to the retroactive amendment, taxpayers relied on the exemption provided by the plain language of the federal estate tax code, yet the Court applied the rational basis test and upheld retroactive amendment of the tax. *Id.* at 32.

Contrary to the *per se* rule Dot Foods invites this Court to adopt, the U.S. Supreme Court explained that “focusing exclusively on the taxpayer’s notice and reliance” on the pre-amendment statute would impose “an unduly strict standard.” *Id.* at 35. Thus, taxpayer reliance on the prior law “is insufficient to establish a constitutional violation.” *Id.* at 33. As the Court pointed out, detrimental reliance cannot logically be the test because a *prospective* change in the law may also disturb expectations individuals have relied on to their detriment, “but such a change would not be deemed therefore to be violative of due process.” *Id.* at 33-34. Accordingly, even if taxpayers had “specifically and detrimentally relied” on the pre-amendment version of the law, that reliance is insufficient to establish a constitutional violation when the amendment is rationally related to a legitimate legislative purpose. *Id.* at 33, 35. “Tax legislation

is not a promise, and a taxpayer has no vested right” in the tax code. *Carlton*, 512 U.S. at 33.

In arguing that this Court should depart from the holding in *Carlton*, Dot Foods relies on Justice O’Connor’s separate opinion concurring in the judgment in *Carlton*. Amicus Br. at 7. Contrary to the majority opinion, Justice O’Connor would have placed more importance on taxpayers’ expectations. *Id.* at 37-38. But no other Justice joined Justice O’Connor’s opinion. Since there were six Justices in the majority in *Carlton*, Justice O’Connor’s concurrence had no impact on the outcome of the case and has no precedential value. *Id.* at 35. Even if her opinion were controlling, Justice O’Connor’s concurrence would not support the *per se* test offered by Dot Foods. While Justice O’Connor contended that the government interest must at some point give way to taxpayers’ interest in finality, she also stated that “[i]t is sufficient for due process analysis if there exists *some* legitimate purpose underlying the retroactivity provision.” *Id.* at 37. If Justice O’Connor supported the *per se* rule offered by Dot Foods, *Carlton*’s uncontested, detrimental reliance on the prior law would have prevented her from concurring in the decision upholding the retroactive tax.

This Court has also upheld a retroactive change to an unambiguous tax law in *W.R. Grace*. In that case, the legislature retroactively amended

a B & O tax exemption after the U.S. Supreme Court held that it violated the commerce clause. *W.R. Grace*, 137 Wn.2d at 585 (citing *Tyler Pipe v. Wash. Dep't of Revenue*, 483 U.S. 232, 240, 107 S. Ct. 2810, 97 L. Ed. 2d 199 (1987)). The original tax exemption impermissibly burdened interstate commerce by favoring in-state business activity. In holding that the prior tax unconstitutionally favored Washington taxpayers, the U.S. Supreme Court did not find any ambiguity in the tax. In fact, it does not appear from the opinion that any party to the case even contended that the law was ambiguous.

To avoid a significant financial loss to the State, the legislature retroactively amended the law to correct the constitutional flaw. This Court determined that the amended tax law did not violate due process. *W.R. Grace*, 137 Wn.2d at 603. The Court never said or even implied that the prior tax was ambiguous, yet the Court applied the rational basis test and upheld the retroactive amendment of the law. *Id.*

As these examples illustrate, the legislative branch may amend an unambiguous tax statute even though the amended law might “disturb the relied-upon expectations of individuals.” *Carlton*, 512 U.S. at 34. There is no support for Dot Foods’ novel argument that retroactive amendment of unambiguous statutory language is *per se* invalid.

2. Because The Legislature Expressly Intended The 2013 Act To Apply Retroactively, It Is Not Required To Be Curative

Dot Foods' next argues that an amendment to an unambiguous statute "is not a 'curative' amendment," but the type of substantive change "that has traditionally been deemed to operate prospectively." Amicus Br. at 8. The exact point of this argument is not clear. "[A]n amendment may operate retroactively if the legislature so intended *or* it is curative." *Wash. State Farm Bureau Fed'n v. Gregoire*, 162 Wn.2d 284, 303, 174 P.3d 1142 (2007) (emphasis added) (internal quotation marks omitted).

The legislature expressly intended for sections 2 and 5 of the 2013 Act to apply to estates of decedents dying on or after May 17, 2005. Laws of 2013, 2d Spec. Sess., ch. 2, § 9. In doing so, the legislature made a considered decision to close the QTIP loophole for all estates, not just for estates of those dying on or after the effective date of the 2013 Act. The presumption against retroactive application of civil legislation is overcome when the legislature makes its intent clear. *Landgraf v. USI Film Prods.*, 511 U.S. 244, 267-68, 114 S. Ct. 1483, 128 L. Ed. 2d 229 (1994). As the U.S. Supreme Court has explained, this is because our constitutional system of government allocates to Congress and state legislatures the responsibility "for fundamental policy judgments concerning the proper temporal reach of statutes." *Id.* at 273.

Given the clear, specific legislative intent to make the 2013 Act retroactive, there is no requirement that the Act also be curative.

3. The 2013 Act Did Not Purport To “Overrule” A Decision Of This Court

Mixing due process and separation of powers principles, Dot Foods next contends that the 2013 Act “attempts to retroactively overrule” *Bracken*. Amicus Br. at 8-9. Dot Foods misapprehends the purpose of the 2013 Act.

The legislature did not overrule this Court’s interpretation of the prior law. Instead, it changed the law to expressly provide that QTIP passing under Internal Revenue Code § 2044 is subject to the Washington estate tax as to all estates of decedents dying on or after May 17, 2005. *See* Appellant’s Reply Br. at 5-6 (discussing key changes the 2013 Act made to the Washington estate tax code). Under the plain language of the amended estate tax code, the estate of Hambleton and other similarly situated estates cannot deduct QTIP from their taxable estate. On the other hand, consistent with the separation of powers doctrine, the amended law has no impact on the estates of Ms. Bracken and Ms. Nelson, which have received the judgment ordered by the Court in *Bracken*, 175 Wn.2d 549. *See* Laws of 2013, 2d Spec. Sess., ch. 2, § 10 (“This act does not

affect any final judgment, no longer subject to appeal, entered by a court of competent jurisdiction before the effective date of this section.”).

Moreover, as this Court has recognized, the legislature may retroactively amend a law that the Court has previously construed. *Lummi Indian Nation v. State*, 170 Wn.2d 247, 262, 241 P.3d 1220 (2010); *Hale v. Wellpinit Sch. Dist. No. 49*, 165 Wn.2d 494, 509-10, 198 P.3d 1021 (2009). Because the retroactive amendment does not impede the Court’s right to apply the new law to the facts of the current case, dictate how the court should decide an issue of fact, or change the outcome of a final judgment, it does not violate separation of powers principles. *Haberman v. Wash. Pub. Power Supply Sys.*, 109 Wn.2d 107, 144, 744 P.2d 1032, amended by 750 P.2d 254 (1987).

C. *W.R. Grace* Did Not Apply A Different Due Process Standard

As discussed above and in prior briefing, the due process limits on retroactive economic legislation are minimal and are satisfied if the legislation is “supported by a legitimate legislative purpose furthered by rational means.” *Carlton*, 512 U.S. at 30-31; *see also Landgraf*, 511 U.S. at 272 (the constitutional restraints on retroactive civil legislation are “modest”).

Dot Foods argues that a different due process standard applies in cases such as *W.R. Grace* that involve “a retroactive remedy for an

unconstitutional tax.” Amicus Br. at 10. There is no authority supporting this claim.² Simply put, the rational basis standard applied in *Carlton* is the test, not one of several tests, used to determine whether retroactive economic legislation complies with substantive due process. This Court applied that rational basis test in *W.R. Grace* and should apply it here.

W.R. Grace involved several distinct issues. One issue was the taxpayers’ claim that the Washington business and occupation tax scheme prior to 1987 was a “nullity” under the United State Supreme Court’s decision in *Tyler Pipe Indus. Inc. v. Dep’t of Revenue*, 483 U.S. 232, 107 S. Ct. 2810, 97 L. Ed. 2d 199 (1987). See *W.R. Grace*, 137 Wn.2d at 594-96. A separate issue involved the taxpayers’ claim that retroactively applying 1987 legislation amending the B & O tax code violated due process “because it reaches back too far in time.” *W.R. Grace*, 137 Wn.2d at 599-603.

² Dot Foods misstates the holding in *City of Modesto v. Nat’l Med, Inc.*, 128 Cal. App. 4th 518, 27 Cal. Rptr. 3d 215 (2005), claiming that the California Court of Appeals “invalidated” an amended city ordinance passed in 2002 seeking to cure a commerce clause flaw in the prior ordinance. Amicus Br. at 12. The Court of Appeals did not invalidate the 2002 amended ordinance at issue. Instead, it explained that the substantive portions of the 2002 ordinance applied prospectively only and declined to re-write the statute so that it could be applied to periods prior to its enactment. See 128 Cal. App. 4th at 527 (by its terms, the amended ordinance applied prospectively), 528-29 (court declined to “reform” the amended ordinance to apply retroactively). In refusing to re-write the statute, the Court did misstate the rational basis standard set out in *Carlton*. See 128 Cal. App. 4th at 528 (asserting that due process requires the “legislative body [to] act promptly and establish only a modest period of retroactivity”). However, that misstatement of the due process standard does not support the claim by amicus that a different due process standard applies in cases involving “a retroactive remedy for an unconstitutional tax.”

In rejecting the taxpayers' "nullity" argument, the Court explained that under United States Supreme Court precedent a "state legislature may modify the offending statute retroactively" to correct a constitutional defect. *Id.* at 595. In reaching its decision, the Court quoted at length from the opinions in *McKesson Corp. v. Division of Alcoholic Beverages & Tobacco*, 496 U.S. 18, 110 S. Ct. 2238, 110 L. Ed. 2d 17 (1990), and *Associated Indus. v. Lohman*, 511 U.S. 641, 114 S. Ct. 1815, 128 L. Ed. 2d 639 (1994). See *W.R. Grace*, 137 Wn.2d at 595-96. Based on these authorities, the Court concluded that the legislature was permitted to cure the commerce clause defect recognized in *Tyler Pipe* through a credit mechanism that did not require refunds for past periods. This portion of the Court's analysis was contained under heading B.1, titled "Washington's B & O Tax Scheme is Not a Nullity." *Id.* at 594.

The Court devoted a separate section of its decision to the taxpayers' substantive due process challenge to the retroactive application of the 1987 legislation. Under the heading titled "Application of the 1987 MATC Does Not Offend Due Process," the Court held that retroactive application of the 1987 law met the due process rational basis standard set out in *Carlton*. *Id.* at 598 (heading B.3), 603 (upholding the 1987 legislation). In upholding the 1987 law against the taxpayers' due process attack, the Court did not state or imply that the due process standard was

different when applied to “remedial” legislation designed to cure a discriminatory tax. Instead, the Court explained that in a prior case it had “approved the motives of the legislature as proper in enacting the 1987 credit law to establish parity among taxpayers. Thus, the rational legislative purpose which *Carlton* requires is present.” *W.R. Grace*, 137 Wn.2d at 603 (citing *American Nat’l Can Corp. v. Dep’t of Revenue*, 114 Wn.2d 236, 248, 787 P.2d 545 (1990)). Thus, the 1987 law applied retroactively as the legislature intended and prevented refunds of B & O tax going back almost eight years. With respect to the retroactive reach of the 1987 law, the Court observed that “[t]he United States Supreme Court has not set a specific duration to the retroactive effect of tax legislation, preferring to rely on legislative decisions in this context.” *Id.*

In short, Dot Foods is wrong when it suggests that this Court in *W.R. Grace* applied a different analysis in rejecting the taxpayers’ claim that retroactive application of the 1987 law violated due process. *W.R. Grace* says nothing of the sort.

D. Cases From Other Jurisdictions Also Apply The *Carlton* Rational Basis Standard And Support The Legislature’s Authority To Retroactively Close A Tax Loophole

Federal courts, and courts in other states, have consistently applied the *Carlton* rational basis standard to uphold the retroactive application of amended tax laws. *E.g., Quarty v. United States*, 170 F.3d 961, 965-68

(9th Cir. 1999); *Montana Rail Link*, 76 F.3d at 994; *Miller v. Johnson Controls, Inc.*, 296 S.W.3d at 397-401; *General Motors Corp.*, 803 N.W.2d at 708-13; *Enterprise Leasing Co. v. Arizona Dep't of Revenue*, 221 Ariz. App. 123, 211 P.3d 1, 3-6 (2008). These authorities, and others, all recognize that the standard set out by the Supreme Court in *Carlton* is minimal and deferential to the legislative branch. *E.g.*, *Quarty*, 170 F.3d at 965 (“In *Carlton*, the Supreme Court left no doubt as to the deferential due process standard applicable to challenges to retroactive tax legislation.”); *Enterprise Leasing*, 211 P.3d at 4 (“Deference is especially essential when reviewing retroactive tax legislation for due process purposes.”); *King v. Campbell Cnty.*, 217 S.W.3d 862, 869 (Ky. Ct. App. 2006) (“[R]etroactive legislation is subject to certain constitutional limitations, which the United States Supreme Court has described as ‘modest.’”). Once that standard has been met, courts typically do not second-guess the legislature’s decisions regarding the temporal length of the retroactive period. So long as the retroactive reach is rational under the particular facts and circumstances at issue, the period of retroactivity “does not exceed the limits of the Due Process Clause.” *General Motors Corp.*, 803 N.W.2d at 713.

Dot Foods suggests that all of these non-Washington cases can be distinguished, arguing that none “involved application of a retroactive

amendment of a statute, which had previously been held by a court to be unambiguous, to a taxpayer who had a live dispute with the tax agency *before* the favorable decision was issued.” Amicus Br. at 15. Dot Foods relies on distinctions that have no constitutional significance. As discussed above, the due process standard applied to a retroactive tax statute does not change based on whether the prior statute was ambiguous.

In addition, there is no legal or logical basis to distinguish between cases involving “a live dispute with the tax agency *before* the favorable decision was issued” and cases in which a dispute has yet to occur. As discussed in prior briefing, the legislature may pass a law that directly impacts a case pending in court. *Haberman*, 109 Wn.2d at 144; *Plaut v. Spendthrift Farm, Inc.*, 514 U.S. 211, 226-27, 115 S. Ct. 1447, 131 L. Ed. 2d 328 (1995); *see generally* Appellant’s Br. at 24-28 (discussing the separation of powers principles). Whether a case is already pending in court at the time the law is amended does not affect the separation of powers analysis, and there is no reason it should affect due process analysis either. Under the theory advanced by Dot Foods, a litigant would gain a due process right to be governed by a court’s statutory interpretation in another case—rather than by the law as amended by the legislature—merely by filing a complaint before the amended law is passed. No authority supports Dot Food’s contention. Such a rule, if it

did exist, would result in a rush to the courthouse by private litigants whenever there is some reason to believe that a law may be amended.

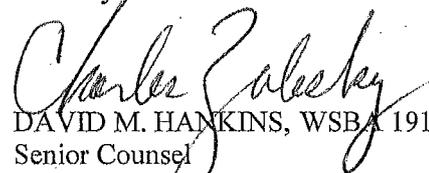
The due process standard set out in *Carlton* looks to the action of the legislature and asks (1) whether the action was a legitimate exercise of legislative authority and (2) whether the legislature employed rational means to achieve its goal. More simply stated, “[t]he ultimate question” is whether the legislature had “a rational purpose in making the changes retroactively.” *Atlantic Richfield Co. v. Dep’t of Revenue*, 14 Or. Tax 212, 219 (Or. T.C. 1997). In applying this standard, no court has suggested that it is irrational for a legislature to amend an unambiguous tax statute, and no court has suggested that it is irrational to apply the amended law to a case where there was a “live” dispute with the taxing agency. Dot Foods offers no reason to depart from the established due process standard set out in *Carlton* and applied by courts across the county, including this Court in *W.R. Grace*. Under the established due process standard, the legislature acted rationally and wholly within its appropriate sphere of authority when it amended the Washington estate tax code in June 2013 to close the QTIP loophole for all estates of decedents dying on or after May 17, 2005, thereby restoring parity among taxpayers.

III. CONCLUSION

After considering this Court's decision in *Bracken* and the policy challenges it presented, the legislature amended the law to expressly impose the Washington estate tax on QTIP passing under Internal Revenue Code § 2044. The 2013 Act is consistent with established due process and separation of powers principles and should be upheld.

RESPECTFULLY SUBMITTED this 14th day of February 2014.

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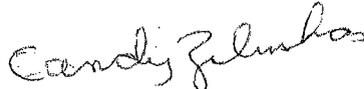
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I certify under penalty of perjury under the laws of the State of
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DATED this 14th day of February 2014, at Olympia, WA.


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Estate of Helen M. Hambleton v. The Department of Revenue of the State of Washington
No. 89419-1

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Please file the Department of Revenue's Answer to Amicus Brief of DOT Foods, Inc.