

FILED
COURT OF APPEALS
DIVISION II

2014 DEC -2 AM 8:59

STATE OF WASHINGTON

BY 
DEPUTY

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

ESTATE OF LOUISE G. LOVEKIN, by and
through its Personal Representative, OSGOOD
S. LOVEKIN, JR.,

Respondent,

v.

STATE OF WASHINGTON, DEPARTMENT
OF REVENUE,

Appellant.

No. 44867-0-II

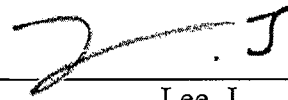
UNPUBLISHED OPINION

LEE, J. — The Department of Revenue appealed a trial court order ordering it to refund Washington State estate tax paid by the Estate of Louise G. Lovekin on the value of QTIP included in the estate and to pay the Estate's attorney fees and costs. That order was based on the Washington State Supreme Court's opinion in *In re Estate of Bracken*, 175 Wn.2d 549, 290 P.3d 99 (2012). In response to *Bracken*, the legislature amended the Estate and Transfer Tax Act, chapter 83.100 RCW, in 2013, retroactive to estates of decedents, like Lovekin, who died on or after May 17, 2005. Challenges to those amendments, including their retroactivity, were brought by estates and considered by the Washington State Supreme Court in *In re Estate of Hambleton*, No. 89419-1. This appeal was stayed pending a decision in *Hambleton*. On October 2, 2014, the Court issued its opinion in *Hambleton*, upholding the validity of the 2013 amendment. *In re Estate of Hambleton*, ___ Wn.2d ___, 335 P.3d 398 (2014).

No. 44867-0-II

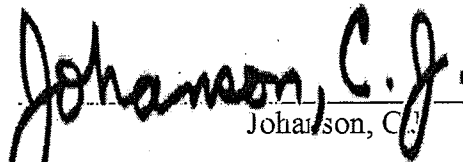
The Department and the Estate agree that the *Hambleton* opinion resolves this appeal in favor of the Department and that the trial court's order should be reversed. Accordingly, we reverse the trial court's order in favor of the Estate and remand to the trial court for entry of judgment in favor of the Department without an award of fees or costs to either party. The mandate will issue upon filing of this opinion.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record in accordance with RCW 2.06.040, it is so ordered.



Lee, J.

We concur:



Johanson, C.



Munick, J.