

ESSB 5096 – Washington capital gains tax

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Jack Brumbaugh, Tax Policy Specialist
Legislation & Policy Division



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fund Washington's future"*

Disclaimer

This document does not constitute official guidance from the Department of Revenue and should not be relied upon for determining tax liability or interpreting tax laws.

Washington capital gains tax basics

- Only individuals are subject to the Washington capital gains tax.
- The tax applies to the sale or exchange of long-term capital assets allocated to Washington.
- The measure of the tax is Washington capital gains.
- The tax rate is 7%.
- The tax goes into effect Jan. 1, 2022 with taxes first becoming due in 2023.

Individuals

Only individuals are subject to the tax.

Individual:

- Natural person who is the legal or beneficial owner of the capital asset at the time of the sale or exchange.

Sales or exchanges

The tax applies to the sale or exchange of long-term capital assets allocated to Washington.

- Allocation rules depend on what kind of asset is being sold:
 - Intangible personal property.
 - Tangible personal property.

Washington capital gains

Start	Net long-term capital gains reported for federal income tax purposes.
Disregard	Any deferrals, basis adjustments, or exemptions from the federal opportunity zone program.
	Any long-term capital gains or losses that are included in the calculation of net long-term capital gains for alternative minimum tax purposes.
Less	Amount of long-term capital gains from sales or exchanges that are either exempt or not allocated to Washington.
Plus	Amount of long-term capital losses from sales or exchanges that are either exempt or not allocated to Washington.
Less	Standard deduction.
	Qualified family-owned small business deduction.
	Charitable donations deduction.
Equals	Washington capital gains

Exemptions

The tax does apply to the sale or exchange of:

- Real estate.
- Interests in a privately-held entity that directly owns real estate (partial).*
- Assets under certain retirement savings vehicles.
- Assets subject to condemnation, or sold or exchanged under imminent threat of condemnation.
- Livestock by farmers or ranchers.
- Depreciable business property.
- Timber, timberland, or timber REIT distributions.
- Goodwill received from the sale of a franchised auto dealership.
- Commercial fishing privileges.

* to the extent that the capital gain or loss from such sale or exchange is directly attributable to the real estate owned directly by such entity.

Deductions

- Standard deduction.
- Qualified family-owned small business deduction.
- Charitable donations deduction.

Qualified family-owned small business deduction

An individual may deduct from the measure of the tax:

- Long-term capital gain from the sale of substantially all of their interest in, or substantially all of the fair market value of the assets of, a qualified family-owned small business.
- **Basic requirements**
 - Qualifying interest
 - Substantially all
 - Ownership duration
 - Material participation
 - Gross revenue limit

Credits

- B&O tax credit
- Out-of-state credit

Revenue distribution

- The first \$500 million collected each fiscal year goes to the Education Legacy Trust Account created in RCW 83.100.230.
- Any remaining amounts collected each fiscal year goes to the Common School Construction Account.

Implementation

Key dates

- ESSB 5096 goes into effect on July 25, 2021.
- The tax goes into effect January 1, 2022.
- Taxes first become due in 2023.

Implementation progress

- Implementation is underway.
- An implementation team has been put together and is meeting regularly.
- The implementation team consists of representatives from impacted divisions within the agency.
- Implementation subgroups have been formed, which include:
 - Communications.
 - Programming.
 - Federal tax information.
 - Interpretations and letter rulings.

Letter rulings

While the Department's Taxpayer Information and Education (TI&E) section gains capital gains tax expertise, an interdivisional taskforce will review letter rulings.

Questions?

