

State Tax Day - Current, S.24, Washington—Miscellaneous Tax: Capital Gains Tax Enacted, (May 6, 2021)

Washington has enacted a 7% excise tax on long-term capital gains over \$250,000 from sales of stocks, bonds, and certain other capital assets. The tax, which will be imposed beginning January 1, 2022, applies only to individuals.

Exemptions

The law includes exemptions for:

- real estate;
- certain interests in a privately held entity to the extent any long-term capital gain or loss is directly attributable to the real estate owned directly by the entity;
- retirement accounts;
- assets transferred as part of a condemnation proceeding;
- livestock related to farming or ranching;
- certain property used in a trade or business such as machinery and equipment that have been immediately expensed;
- capital assets acquired and used only for purposes of a trade or business of a sole proprietorship;
- timber and timberlands;
- commercial fishing privileges; and
- goodwill received from the sale of a franchised auto dealership.

Sourcing

Generally, long-term capital gains or losses from the sale or exchange of tangible personal property are allocated to Washington if the property was located in the state at the time of the sale or exchange. Long-term capital gains or losses derived from intangible personal property are allocated to Washington if the taxpayer was domiciled in the state when the sale or exchange occurred.

Deductions

The law provides a deduction for the sale of substantially all of a qualified family-owned small business.

A deduction is also allowed (capped at \$100,000) for the amount of charitable donations made by the taxpayer to qualified organizations in excess of \$250,000.

Credit

A credit is allowed against the business and occupation tax for any capital gains tax owed on the sale or exchange of a capital asset.

Returns and Annual Adjustments

The annual return for the capital gains tax must be filed by the due date of the taxpayer's federal income tax return for the taxable year.

Certain amounts (e.g., the \$250,000 exclusion) will be adjusted for inflation beginning with taxes due in 2024.

S.B. 5096, Laws 2021, applicable as noted; *Final Bill Report*, Washington State Senate