

**From:** Caleb Allen  
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**To:** John Katsandres; Michael W. Brown  
**Subject:** Washington Supreme Court upholds capital gains tax

## Washington Supreme Court upholds capital gains tax

In a much-anticipated ruling, the state's highest court has [upheld](#) Washington's tax on capital gains income. The [7-2 ruling](#), released Friday, said the [7% tax on capital gains](#) income above \$250,000 is properly considered an excise tax, not an income tax.

**Not overturning precedent:** The court's ruling does not overturn a 1933 legal precedent that considers income to be property, which the state constitution said must be taxed uniformly, and which has prevented the Legislature from creating a progressive income tax. Still, "the court did seem to go out of its way to both cast doubt on and bemoan the results of that opinion," The [Seattle Times](#) reports.

- The ruling "contradicts common sense," [The Wall Street Journal](#) wrote: "The majority opinion boasts that 'forty-one other states and the District of Columbia tax capital gains.' Yes, and every one considers capital gains to be income."

**Immediate impact:** In response to the ruling, Camas-based Fisher Investments announced that it will [relocate its corporate headquarters to Dallas, Texas](#).

- Fisher Investments, founded in 1979 by investing guru Ken Fisher, [expressed its disagreement with the ruling](#) by saying its decision to move is "in honor of the Washington State Supreme Court's wisdom and knowledge of the law, and in recognition of whatever it may do next."

**AWB statement:** This ruling hurts the state's competitiveness and moves Washington closer to an income tax, which voters have rejected many times, AWB said in response to the ruling.

- "Proponents argue the capital gains tax makes Washington's tax system more progressive, but we have not seen an equivalent reduction in sales tax or business and occupation tax," [said AWB President Kris Johnson](#). "It is simply a new tax at a time when it's not needed. In the last five years, the Legislature has raised 22 other

taxes which will collectively raise \$40 billion over 10 years. Instead of constantly looking for ways to raise more taxes, we encourage lawmakers to consider ways to invest in the economy.”

**Impact on budget:** The tax is expected to bring in roughly \$500 million a year in extra revenue. That includes an estimated \$248 million this biennium, \$1.1 billion in 2023-2025, and \$1.5 billion in 2025-2027. The state’s revenue forecast and this year’s legislative budget proposals all assume the tax will be collected, so the Supreme Court’s ruling will not affect budget projections.

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Caleb Allen | KOM Consulting, PLLC | Office: (206) 281-7258 ext. 229 | Mobile: (206) 419-9272 |  
Fax: (206) 217-5449 | P.O. Box 99702 | [caleba@komconsulting.com](mailto:caleba@komconsulting.com) | [www.komconsulting.com](http://www.komconsulting.com)

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