

# Frequently asked questions about Washington's capital gains tax

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## General tax questions

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^ Do I have to file a tax return if I don't owe capital gains tax?

No. You are not required to file a capital gains tax return if your net long-term capital gains are exempt or below the standard deduction.

^ Do I owe capital gains tax when I sell real estate?

No. Washington's capital gains tax does not apply to the sale or exchange of real estate. It does not matter:

- How long the seller owned the property.
- Whether the seller occupied the property.
- Where the property is located.
- What type of property it is (commercial or residential).
- Who owns the property (individual, trust, or business).

^ Do I owe capital gains tax on investments through my retirement savings account?

No. Washington's capital gains tax does not apply to transactions through retirement savings accounts. This includes any transactions made through any of the following types of accounts:

- 401Ks Tax sheltered annuities.
- Deferred compensation plan.
- IRA.
- ROTH IRA.
- Employee defined contribution plan.
- Employee defined benefit plan.
- Similar retirement savings accounts.

^ What does allocated to Washington mean?

Allocation is a way of assigning the long-term capital gain or loss generated by a transaction to a particular jurisdiction.

Allocating long-term capital gains and losses is important because, for example, an individual's long-term capital gains that are allocated to a location other than Washington are not subject to the Washington capital gains tax.

Long-term capital gains are allocated to Washington as follows:

- For intangible personal property such as stock or bonds, gains are allocated to Washington if the *individual* is domiciled in Washington at the time the sale or exchange occurred.
- For tangible personal property such as art or collectibles, gains are allocated to Washington if either of the following are true:
  - The *property* was located in Washington at the time of sale.
  - The *property* was not located in Washington at the time of sale but **all** of the following are true:

- The property was located in Washington in the same year or the year before the sale took place.
- The individual was a Washington resident at the time of the sale.
- The sale was not subject to an income or excise tax by another jurisdiction.

^ How are exemptions to the capital gains tax applied?

Exemptions from Washington's capital gains are based on transactions. This means you may owe capital gains tax on some transactions and not on others.

^ Does my business entity owe capital gains tax?

No. Washington's capital gains tax only applies to individuals. However, individual owners of entities that are pass-through or disregarded entities for federal tax purposes may owe Washington's capital gains tax on gains from sales or exchanges made by such entities.

^ When do I report the long-term capital gain from my installment sale?

If you report payments for a sale on the installment method for federal tax purposes, you will report the long-term gain the same way for Washington's capital gains tax. This means as you receive the installment payments.

**Note:** If the original sale took place before the effective date of Jan. 1, 2022, you do not owe Washington's capital gains tax on any of the payments you receive.

^ Do I owe capital gains tax on a sale of cryptocurrency?

You will generally owe Washington's capital gains tax on a sale of cryptocurrency if you hold it for more than one year and you are domiciled in Washington at the time the sale or exchange occurs. Cryptocurrency is considered intangible property for purposes of the capital gains tax.

^ Do I owe capital gains tax on mutual fund distributions?

Many mutual fund distributions are distributions of interest or dividends, which are not subject to Washington's capital gains tax.

However, if you receive capital gain distributions because the fund manager sold intangible assets that were held for more than one year, you may owe Washington's capital gains tax. The same is true of capital gain that is retained in the fund and not distributed to you (these amounts are reported on box 1a of form 2439). Capital gain from your mutual fund is reported on Schedule D of your federal tax return and should be included in your Washington capital gains calculation.

^ Can I use short-term losses to offset my long-term capital gains?

No. Short-term losses are not included in the calculation of federal net long-term capital gain and cannot be used to offset long-term capital gain subject to Washington's capital gains tax.

^ Is day-trading subject to Washington's capital gains tax?

Washington's capital gains tax generally applies to the sale or exchange of assets that are held for more than one year. This means you may not owe capital gains tax on the sale or exchange of assets you held for a shorter period.

**Please note:** If you reported section 1256 contracts based on the canceled interim guidance statement, you may amend your return.

^ Can a loss carryforward from before 2022 be used to reduce my capital gains tax?

No, losses from a sale or exchange that occurred before the effective date of January 1, 2022, cannot be used to reduce your capital gains tax. You must add back such losses using the *Loss carryforward not allocated to Washington* line of the tax return.

^ Do I owe Washington capital gains tax on the gain from the sale of qualified small business stock (IRC Section 1202)?

No, you do not owe Washington's capital gains tax on gain from the sale or exchange of qualified small business stock if the gain was excluded from your federal net long-term capital gain under IRC Section 1202.

^ Can I defer my Washington capital gains tax liability by investing my capital gains in a Qualified Opportunity Fund (QOF)?

No. Washington's capital gains tax generally applies when a sale or exchange of long-term capital assets results in a capital gain. Washington law specifically ignores federal deferral and exclusion provisions related to QOFs in IRC Section 1400Z-2.

## Return and payment questions

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- ✓ Do I have to enter a separate line item for each transaction?
- ✓ Can my client submit a payment if I file their return for them?
- ✓ Can I pay by check?
- ✓ How can I claim a refund of my estimated payment if I have determined I do not owe tax?



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