

# Practical Application of the New Washington State Long- Term Capital Gains Excise Tax

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# History

Brief history of  
taxation in  
Washington State

Introduction of  
the Capital Gains  
Tax by legislature

Judicial Review:  
Statute vs.  
Constitution

# Key Provisions

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Applies to Individuals, Grantor Trusts and  
Incomplete Non-grantor Trusts

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Washington State Long-Term Capital Gains over  
\$250,000

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7% excise tax


# Deductions

Standard - \$250,000 for both single and married filing jointly filers

Charitable Donation – Contributions \*over\* \$250,000

Qualified Family-Owned Small Business

# FYI – Deductions

- Standard deduction – if you file MFJ for Federal, you can't file Single for Washington
  - Charitable contribution deduction capped at \$100,000
  - Charities need to be “principally managed or directed in Washington”
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# Exclusions

Real Estate	Sales of passthrough entities holding real estate	Assets held in a retirement account
Assets subject to condemnation	Cattle, horses or livestock if a farmer or rancher	Depreciable business property
Timber	Commercial fishing privileges	Goodwill from the sale of an auto dealership



# FYI – Exclusions

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Passthrough exemption only goes up one level

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Distributions in-excess-of basis could be considered “sale or exchange”

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HSAs are not included under retirement savings account provisions

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Presumably, Goodwill from the sale of everything else is included

# Domicile and Residency Rules

## Domicile (Intangible Property):

- 30-day rule - **without** a “permanent place of abode”
- 183-day rule - **with** a “permanent place of abode” in Washington

## Residency (Tangible Property):

- Voter registration
- Amount of time spent
- Social connections
- Business relationships



# Gains on Intangible and Tangible Personal Property

Intangible Assets – Gain allocated to Washington if recognized by someone domiciled **in-state** when received

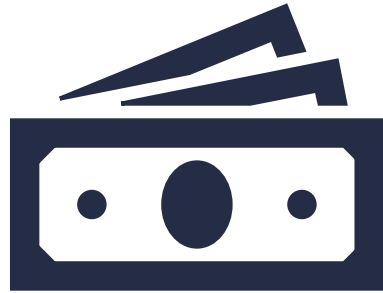


Tangible Assets – Gain allocated to Washington if:

Asset is in state at time of sale

Asset was in state within the prior 12-months for a former resident

# FYI – Intangible and Tangible Personal Property



Intangible personal property gains can include mutual fund dividends



Includes tangible personal property **in-state** at time of sale, regardless of residency or domicile

# Excise Tax Implications

No - Federal  
income tax  
deductibility

Yes - Selling  
expenses

Maybe -  
Partnership basis  
adjustments

# Planning Opportunities

**Charitable  
Remainder Trusts  
(watch out for  
ING issues)**

**Gains from  
Qualified Small  
Business Stock  
(DOR questions)**

# FYI – Implementation

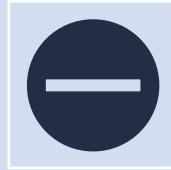


No Installment sales made before January  
1, 2022



No WA long-term capital loss carryforwards  
from before January 1, 2022

# FYI - Compliance



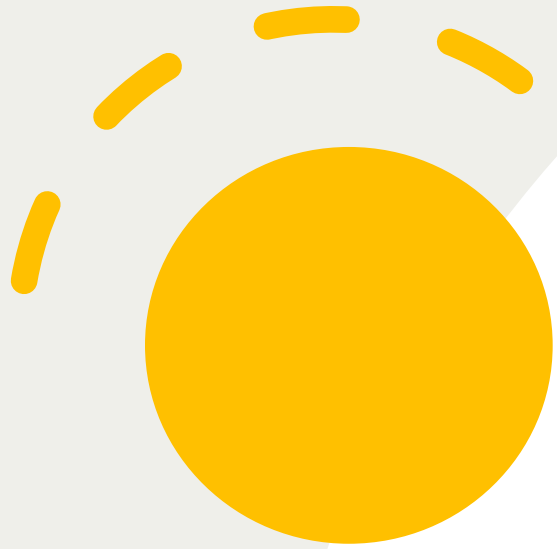
Not automatically extended with  
Federal



Client needs DOR login



Passthrough gain exemption –  
needs proof



# Conclusion

Any questions?