# SPECIAL REPORT

Marcus & Millichap

*Washington State Capital Gains Tax*
**Frequently Asked Questions:**

APRIL 2023

## Q: Is there a new Capital Gains Tax in Washington?

**A:** Senate Bill 5069 establishes a flat-rate tax for capital gains incurred on the sale of long-term assets held by Washington residents. The initial payments are due to the State Department of Revenue by April 18, 2023 — the same day as the federal tax filing deadline.

## Q: How does the Washington Capital Gains Tax work?

**A:** Passed in 2021 and fully enacted this March, the Bill imposes a 7 percent tax rate on individuals' profits arising from the sale or transfer of long-term assets, such as businesses, stocks and bonds.

- Taxable amounts are delineated by each calendar year and apply to long-term capital gains incurred from January 1, 2022 onward.
- Payments are due before April 18 each year and reflect the profits realized from the sale of assets during the prior taxable period.
- The standard deduction of $250,000 per annum applies for individuals and married households. Only the capital gains in excess of the standard deduction are subject to the tax.
    - ➢ For example, a net profit of $300,000 from the sale of bonds in 2022 translates to a taxable capital gain of $50,000 in 2023.
    - ➢ The law also provides up to a $100,000 tax abatement on top of the standard deduction, if the taxpayer contributed at least $250,000 to Washington-based charities during the year.

## Exemption Status Under the 2023 Capital Gains Tax

| Assets held for more than one year | Washington Capital Gains Tax status |
|---|---|
| Stocks and Bonds | Not Exempt |
| Businesses and Business Interests | |
| Durable Goods (i.e. art; vehicles) | |
| Real Estate | Exempt |
| Retirement Accounts | |
| Livestock, Timber and Commercial Fishing Privileges | |
| Small Businesses with Annual Revenue <$10mill | |

## Q: How might this affect Washington taxpayers?

- The tax burden is expected to fall on only 7,000 Washington residents. Nearly all of the state's population is unaffected.
- Washington's new levy is projected to generate more than $500 million per year in state revenue, amounting to over $70,000 in capital gains per person per annum for those paying the tax.
- Individuals with profits from the sale of long-term assets in excess of $250,000 per year could explore ways to alleviate this new burden, such as:
    - ➢ Establishing legal domicile in another state to avoid the new capital gains tax on the sale of intangible assets.
    - ➢ Contributing at least $250,000 each calendar year to a Washington-based charity.
    - ➢ Spreading capital gains over time through nongrantor trusts.

## Q: What could this mean for commercial real estate?

- The new tax on profits from business assets, bonds and stocks could coax more high-net worth Washingtonians to alternatively park their capital in commercial real estate properties.
- Washington's capital gains tax makes it comparatively less profitable for some to conduct business in the state. Firms may shift from their Washington offices as a result:
    - ➢ Fisher Investments — a Camas-based financial management firm — announced the relocation of its headquarters to Texas on March 24, citing the state's ratification of the tax.
- The tax on the transfer of business interests will challenge Washington-based venture capital and startup investors.
    - ➢ Some firms may find it easier to attain funding for expansions elsewhere, possibly reducing the need to occupy physical space in the state's already-beleaguered office markets.

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