

Washington State Capital Gains Tax

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In March 2023 the Washington State Supreme Court upheld the capital gains tax in a 7-2 ruling, citing that it is an excise tax, not an income tax, and thus legal under state law. This new tax brings significant complexity to tax planning and filing, as well as navigating the new website to pay the tax. If you have questions about how this applies to you, please [click here](#) to learn more and take our client compatibility survey.

What is subject to tax?

This tax of 7% is effective starting January 1, 2022, for long-term capital gains on asset sales in excess of \$250,000 for individuals and married couples (note there is not a doubling of the exemption amount for married couples). The tax is not imposed on business entities but does apply to pass-through entities such as S-Corporations and partnerships. Short-term capital gains, ordinary income, qualified dividends, and tax-exempt interest are not subject to the tax.

What asset sales are excluded?

- Real estate
- Interests in privately held entities - to the extent that the capital gain is directly attributable to the real estate owned directly by the entity.
- Retirement accounts
- Certain livestock
- Timber, timberlands, dividends, and distributions from real estate investment trusts derived from gains from the sale or exchange of timber or timberlands.
- Commercial fishing privileges
- Goodwill from the sale of a franchised auto dealership
- Assets subject to condemnation

What deductions are available?

- The first \$250,000 of long-term capital gains are not subject to the tax.
- Long-term gain from the sale of all or substantially all of a qualified family-owned small business is not subject to the tax.
- Charitable donations in excess of \$250,000 per person but cannot exceed \$100,000 per year per individual.

How do I pay the tax?

Taxpayers will be required to register with the state website [Secure Access Washington](#). Regardless of whether you file an extension or not, you are required to pay the tax for 2022 by April 18th. Tax returns must be filed and paid online. If the amount is not paid by April 18th there will be a penalty of up to 29% of the tax due.

Planning Strategies

- **Tax-loss Harvesting:** Short-term losses cannot offset long-term gains, however, long-term losses can still reduce long-term gains. If you have a concentrated stock position and you are looking to diversify, consider timing the sale with long-term losses, or sell out of

the position in a multi-year time frame.

- **Charitable Contributions:** Contributions in excess of \$250,000 can offset the tax, up to \$100,000, indexed for inflation. These contributions must be made to Washington-based nonprofits to be applicable.
- **Gifting:** Giving assets that have a low-cost basis to loved ones in a lower tax bracket will remove the asset from your estate. Consider gifting assets to charities directly, or through a donor-advised fund, to avoid realizing gains.

[Explore Our Private Wealth Page](#)

Source: <https://dor.wa.gov/taxes-rates/other-taxes/capital-gains-tax>



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