Chapter 82.87 RCW
CAPITAL GAINS TAX

Sections

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RCW 82.87.010 Findings—Intent—2021 c 196. The legislature finds that it is the paramount duty of the state to amply provide every child in the state with an education, creating the opportunity for the child to succeed in school and thrive in life. The legislature further finds that high quality early learning and child care is critical to a child's success in school and life, as it supports the development of the child's social-emotional, physical, cognitive, and language skills. Therefore, the legislature will invest in the ongoing support of K-12 education and early learning and child care by dedicating revenues from chapter 196, Laws of 2021 to the education legacy trust account and the common school construction account [fund].

The legislature further recognizes that a tax system that is fair, balanced, and works for everyone is essential to help all Washingtonians grow and thrive. But Washington's tax system today is the most regressive in the nation because it asks those making the least to pay the most as a percentage of their income. Middle-income families in Washington pay two to four times more in taxes, as a percentage of household income, as compared to top earners in the state. Low-income Washingtonians pay at least six times more than do our wealthiest residents.

To help meet the state's paramount duty, the legislature intends to levy a seven percent tax on the voluntary sale or exchange of stocks, bonds, and other capital assets where the profit is in excess of $250,000 annually to fund K-12 education, early learning, and child care, and advance our paramount duty to amply provide an education to every child in the state. The legislature recognizes that levying this

tax will have the additional effect of making material progress toward rebalancing the state's tax code.

The legislature further intends to exempt certain assets from the tax including, but not limited to, qualified family-owned small businesses, all residential and other real property, and retirement accounts. [2021 c 196 s 1.]

Automatic expiration date and tax preference performance statement exemption—2021 c 196: "The provisions of RCW 82.32.805 and 82.32.808 do not apply to this act." [2021 c 196 s 18.]

RCW 82.87.020 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Adjusted capital gain" means federal net long-term capital gain:

(a) Plus any amount of long-term capital loss from a sale or exchange that is exempt from the tax imposed in this chapter, to the extent such loss was included in calculating federal net long-term capital gain;

(b) Plus any amount of long-term capital loss from a sale or exchange that is not allocated to Washington under RCW 82.87.100, to the extent such loss was included in calculating federal net long-term capital gain;

(c) Plus any amount of long-term capital loss carryover that is carried forward from a sale or exchange that is not allocated to Washington under RCW 82.87.100, to the extent such loss was included in calculating federal net long-term capital gain;

(d) Plus any amount of long-term capital loss carryover that is carried forward from a sale or exchange that is exempt from the tax imposed in this chapter, to the extent such loss was included in calculating federal net long-term capital gain;

(e) Plus any amount of long-term capital loss carryover that is carried forward from a sale or exchange that occurred before January 1, 2022, to the extent such loss was included in calculating federal net long-term capital gain;

(f) Plus any amount of long-term capital gain or loss from the sale or exchange of a section 1256 contract held for more than one year not included in the calculation of federal net long-term capital gain that would otherwise be included if Title 26 U.S.C. Sec. 1256 of the internal revenue code did not exist;

(g) Less any amount of long-term capital gain from a sale or exchange that is not allocated to Washington under RCW 82.87.100, to the extent such gain was included in calculating federal net long-term capital gain; and

(h) Less any amount of long-term capital gain from a sale or exchange that is exempt from the tax imposed in this chapter, to the extent such gain was included in calculating federal net long-term capital gain.

(2) "Capital asset" has the same meaning as provided by Title 26 U.S.C. Sec. 1221 of the internal revenue code and also includes any other property if the sale or exchange of the property results in a gain that is treated as a long-term capital gain under Title 26 U.S.C. Sec. 1231 or any other provision of the internal revenue code.

(3) "Federal net long-term capital gain" means the net long-term capital gain reportable for federal income tax purposes determined as if Title 26 U.S.C. Secs. 55 through 59, 164, 1256, 1400Z-1, and 1400Z-2 of the internal revenue code did not exist.

(4) "Individual" means a natural person.

(5) "Intangible personal property" means personal property that is not tangible personal property.

(6) "Internal revenue code" means the United States internal revenue code of 1986, as amended, as of July 25, 2021, or such subsequent date as the department may provide by rule consistent with the purpose of this chapter.

(7) "Long-term capital asset" means a capital asset that is held for more than one year.

(8) "Long-term capital gain" means gain from the sale or exchange of a long-term capital asset.

(9) "Long-term capital loss" means a loss from the sale or exchange of a long-term capital asset.

(10) "Real estate" means land and fixtures affixed to land. "Real estate" also includes used mobile homes, used park model trailers, used floating homes, and improvements constructed upon leased land.

(11)(a) "Resident" means an individual:

(i) Who is domiciled in this state during the taxable year, unless the individual (A) maintained no permanent place of abode in this state during the entire taxable year, (B) maintained a permanent place of abode outside of this state during the entire taxable year, and (C) spent in the aggregate not more than 30 days of the taxable year in this state; or

(ii) Who is not domiciled in this state during the taxable year, but maintained a place of abode and was physically present in this state for more than 183 days during the taxable year.

(b) For purposes of this subsection, "day" means a calendar day or any portion of a calendar day.

(c) An individual who is a resident under (a) of this subsection is a resident for that portion of a taxable year in which the individual was domiciled in this state or maintained a place of abode in this state.

(12) "Section 1256 contract" has the same meaning as provided by Title 26 U.S.C. Sec. 1256 of the internal revenue code.

(13) "Tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched. "Tangible personal property" does not include steam, electricity, or electrical energy.

(14) "Taxable year" means the taxpayer's taxable year as determined under the internal revenue code.

(15) "Taxpayer" means an individual subject to tax under this chapter.

(16) "Washington capital gains" means an individual's adjusted capital gain, as modified in RCW 82.87.060, for each return filed under this chapter. [2026 c 191 s 2; 2025 c 409 s 4; 2021 c 196 s 4.]

Effective date—2025 c 409 ss 3, 4, 8, 10, and 15: See note following RCW 82.87.160.

Automatic expiration date and tax preference performance statement exemption—2021 c 196: See note following RCW 82.87.010.

RCW 82.87.030 Distribution of revenues. (1) All taxes, interest, and penalties collected under this chapter shall be distributed as follows, except as provided in subsection (3) of this section during the 2025-2027 fiscal biennium:

(a) The first $500,000,000 collected each fiscal year shall be deposited into the education legacy trust account created in RCW 83.100.230; and

(b) Any remainder collected each fiscal year shall be deposited into the common school construction fund.

(2) The amounts specified under subsection (1)(a) of this section shall be adjusted annually as provided under RCW 82.87.150.

(3) During the 2025-2027 fiscal biennium, all taxes, interest, and penalties collected under this chapter shall be deposited into the education legacy trust account. [2026 c 268 s 940; 2021 c 196 s 2.]

Effective date—2026 c 268: See note following RCW 28B.15.210.

Automatic expiration date and tax preference performance statement exemption—2021 c 196: See note following RCW 82.87.010.

RCW 82.87.040 Tax imposed—Long-term capital assets. (1)(a) Beginning January 1, 2022, an excise tax is imposed on the sale or exchange of long-term capital assets. Only individuals are subject to payment of the tax, which equals seven percent multiplied by an individual's Washington capital gains.

(b) Beginning January 1, 2025, an additional excise tax is imposed on the sale or exchange of long-term capital assets, which equals 2.90 percent multiplied by the portion of an individual's Washington capital gains exceeding $1,000,000.

(2) The tax levied in subsection (1) of this section is necessary for the support of the state government and its existing public institutions.

(3) If an individual's Washington capital gains are less than zero for a taxable year, no tax is due under this section and no such amount is allowed as a carryover for use in the calculation of that individual's adjusted capital gain, as defined in RCW 82.87.020(1), for any taxable year. To the extent that a loss carryforward is included in the calculation of an individual's federal net long-term capital gain and that loss carryforward is directly attributable to losses from sales or exchanges allocated to this state under RCW 82.87.100, the loss carryforward is included in the calculation of that individual's adjusted capital gain for the purposes of this chapter. An individual may not include any losses carried back for federal income tax purposes in the calculation of that individual's adjusted capital gain for any taxable year.

(4)(a) The tax imposed in this section applies to the sale or exchange of long-term capital assets owned by the taxpayer, whether the taxpayer was the legal or beneficial owner of such assets at the time of the sale or exchange. The tax applies when the Washington capital gains are recognized by the taxpayer in accordance with this chapter.

(b) For purposes of this chapter:

(i) An individual is considered to be a beneficial owner of long-term capital assets held by an entity that is a pass-through or disregarded entity for federal tax purposes, such as a partnership,

limited liability company, S corporation, or grantor trust, to the extent of the individual's ownership interest in the entity as reported for federal income tax purposes.

(ii) A nongrantor trust is deemed to be a grantor trust if the trust does not qualify as a grantor trust for federal tax purposes, and the grantor's transfer of assets to the trust is treated as an incomplete gift under Title 26 U.S.C. Sec. 2511 of the internal revenue code and its accompanying regulations. A grantor of such trust is considered the beneficial owner of the capital assets of the trust for purposes of the tax imposed in this section and must include any long-term capital gain or loss from the sale or exchange of a capital asset by the trust in the calculation of that individual's adjusted capital gain, if such gain or loss is allocated to this state under RCW 82.87.100. [2025 c 421 s 101; 2021 c 196 s 5.]

Application—2025 c 421 s 101: "Section 101 of this act applies to taxes imposed in calendar year 2025 for collection in calendar year 2026." [2025 c 421 s 301.]

Findings—Intent—2025 c 421: "(1) The legislature finds that it is the paramount duty of the state to amply provide every child in the state with an education, creating the opportunity for the child to succeed in school and thrive in life. The legislature further finds that high quality early learning and child care is critical to a child's success in school and life, as it supports the development of the child's social-emotional, physical, cognitive, and language skills. The legislature further finds that the state's higher education system ensures Washington residents have the opportunity to succeed in a competitive global economy.

(2) The legislature further finds that in 2024, when given the opportunity to retain investments in the education legacy trust account for high quality early learning and child care, 64.11 percent of Washington voters in 32 of its 39 counties voted to uphold the excise tax on sales of long-term capital assets for this purpose.

(3) Therefore, the legislature will fund ongoing support of public K-12 education, early learning and child care, and higher education, by dedicating revenues from this act to the education legacy trust account. The legislature further recognizes that a tax system that is fair, balanced, and works for everyone is essential to help all Washingtonians grow and thrive. Washington's tax system remains the second most regressive in the nation as it asks those with the least to pay the most as a percentage of their income. Low-income Washingtonians pay at least three times more in state and local taxes as a percentage of their income than the state's highest-income households.

(4) To help increase funding to the education legacy trust account, the legislature intends to levy an additional excise tax on the sale or exchange of long-term capital assets, which equals 2.90 percent multiplied by the portion of an individual's Washington capital gains exceeding $1,000,000, and by creating a more progressive rate structure for the estate tax by increasing the top tier rates up to 35 percent. Further, the legislature intends to increase the exclusion amount to $3,000,000 for the estate tax. The legislature recognizes that levying these taxes with a more progressive rate structure, and increasing the exclusion amount for the estate tax,

will have the additional effect of making material progress toward rebalancing the state's tax code." [2025 c 421 s 1.]

Savings—2025 c 421: "This act does not affect any existing right acquired or liability or obligation incurred under the sections amended or repealed in this act or under any rule or order adopted under those sections, nor does it affect any proceeding instituted under those sections." [2025 c 421 s 303.]

Effective date—2025 c 421: "This act is necessary for the support of the state government and its existing public institutions, and takes effect immediately [May 20, 2025]." [2025 c 421 s 305.]

Contingency—2021 c 196 ss 5 and 16: "(1) If a court of competent jurisdiction, in a final judgment not subject to appeal, adjudges section 5 of this act unconstitutional, or otherwise invalid, in its entirety, section 16 of this act is null and void in its entirety. Any credits previously claimed under section 16 of this act must be repaid within 30 days of the department of revenue's notice to the taxpayer of the amount due.

(2) If the taxpayer fails to repay the credit by the due date, interest and penalties as provided in chapter 82.32 RCW apply to the deficiency." [2021 c 196 s 20.]

Automatic expiration date and tax preference performance statement exemption—2021 c 196: See note following RCW 82.87.010.

RCW 82.87.050 Exemptions. This chapter does not apply to the sale or exchange of:

(1) All real estate transferred by deed, real estate contract, judgment, or other lawful instruments that transfer title to real property and are filed as a public record with the counties where real property is located;

(2)(a) An interest in a privately held entity only to the extent that any long-term capital gain or loss from such sale or exchange is directly attributable to the real estate owned directly by such entity.

(b)(i) Except as provided in (b)(ii) and (iii) of this subsection, the value of the exemption under this subsection is equal to the fair market value of the real estate owned directly by the entity less its basis, at the time that the sale or exchange of the individual's interest occurs, multiplied by the percentage of the ownership interest in the entity which is sold or exchanged by the individual.

(ii) If a sale or exchange of an interest in an entity results in an amount directly attributable to real property and that is considered as an amount realized from the sale or exchange of property other than a capital asset under Title 26 U.S.C. Sec. 751 of the internal revenue code, such amount must not be considered in the calculation of an individual's exemption amount under (b)(i) of this subsection (2).

(iii) Real estate not owned directly by the entity in which an individual is selling or exchanging the individual's interest must not be considered in the calculation of an individual's exemption amount under (b)(i) of this subsection (2).

(c) Fair market value of real estate may be established by a fair market appraisal of the real estate or an allocation of assets by the seller and the buyer made under Title 26 U.S.C. Sec. 1060 of the internal revenue code, as amended. However, the department is not bound by the parties' agreement as to the allocation of assets, allocation of consideration, or fair market value, if such allocations or fair market value do not reflect the fair market value of the real estate. The assessed value of the real estate for property tax purposes may be used to determine the fair market value of the real estate, if the assessed value is current as of the date of the sale or exchange of the ownership interest in the entity owning the real estate and the department determines that this method is reasonable under the circumstances.

(d) The value of the exemption under this subsection (2) may not exceed the individual's long-term capital gain or loss from the sale or exchange of an interest in an entity for which the individual is claiming this exemption;

(3) Assets held under a retirement savings account under Title 26 U.S.C. Sec. 401(k) of the internal revenue code, a tax-sheltered annuity or custodial account described in Title 26 U.S.C. Sec. 403(b) of the internal revenue code, a deferred compensation plan under Title 26 U.S.C. Sec. 457(b) of the internal revenue code, an individual retirement account or individual retirement annuity described in Title 26 U.S.C. Sec. 408 of the internal revenue code, a Roth individual retirement account described in Title 26 U.S.C. Sec. 408A of the internal revenue code, an employee defined contribution program, an employee defined benefit plan, or a similar retirement savings vehicle, whether foreign or domestic, that penalizes withdrawals until the legal or beneficial owner reaches a certain age;

(4) Assets pursuant to, or under imminent threat of, condemnation proceedings by the United States, the state or any of its political subdivisions, or a municipal corporation;

(5) Cattle, horses, or breeding livestock if for the taxable year of the sale or exchange, more than 50 percent of the taxpayer's gross income for the taxable year, including from the sale or exchange of capital assets, is from farming or ranching;

(6) Property depreciable under Title 26 U.S.C. Sec. 167(a)(1) of the internal revenue code, or that qualifies for expensing under Title 26 U.S.C. Sec. 179 of the internal revenue code;

(7) Timber, timberland, or the receipt of Washington capital gains as dividends and distributions from real estate investment trusts derived from gains from the sale or exchange of timber and timberland. "Timber" means forest trees, standing or down, on privately or publicly owned land, and includes Christmas trees and short-rotation hardwoods. The sale or exchange of timber includes the cutting or disposal of timber qualifying for capital gains treatment under Title 26 U.S.C. Sec. 631(a) or (b) of the internal revenue code;

(8)(a) Commercial fishing privileges.

(b) For the purposes of this subsection (8), "commercial fishing privilege" means a right, held by a seafood harvester or processor, to participate in a limited access fishery. "Commercial fishing privilege" includes and is limited to:

(i) In the case of federally managed fisheries, quota and access to fisheries assigned pursuant to individual fishing quota programs, limited entry and catch share programs, cooperative fishing management agreements, or similar arrangements; and

(ii) In the case of state-managed fisheries, quota and access to fisheries assigned under fishery permits, limited entry and catch share programs, or similar arrangements; and

(9) Goodwill received from the sale of an auto dealership licensed under chapter 46.70 RCW whose activities are subject to chapter 46.96 RCW. [2025 c 409 s 5; 2021 c 196 s 6.]

Automatic expiration date and tax preference performance statement exemption—2021 c 196: See note following RCW 82.87.010.

RCW 82.87.060 Deductions. In computing tax for a taxable year, a taxpayer may deduct from his or her Washington capital gains:

(1) A standard deduction of $250,000 per individual, or in the case of spouses or domestic partners, their combined standard deduction is limited to $250,000, regardless of whether they file joint or separate returns. The amount of the standard deduction shall be adjusted pursuant to RCW 82.87.150;

(2) Amounts that the state is prohibited from taxing under the Constitution of this state or the Constitution or laws of the United States;

(3) The amount of adjusted capital gain derived from the sale or transfer of the taxpayer's interest in a qualified family-owned small business pursuant to RCW 82.87.070; and

(4) Charitable donations deductible under RCW 82.87.080. [2021 c 196 s 7.]

Automatic expiration date and tax preference performance statement exemption—2021 c 196: See note following RCW 82.87.010.

RCW 82.87.070 Qualified family-owned small business deduction. (1) In computing tax under this chapter for a taxable year, a taxpayer may deduct from his or her Washington capital gains the amount of adjusted capital gain derived in the taxable year from the sale of substantially all of the fair market value of the assets of, or the transfer of substantially all of the taxpayer's interest in, a qualified family-owned small business, to the extent that such adjusted capital gain would otherwise be included in the taxpayer's Washington capital gains.

(2) For purposes of this section, the following definitions apply:

(a) "Assets" means real property and personal property, including tangible personal property and intangible property.

(b) "Family" means the same as "member of the family" in RCW 83.100.046.

(c)(i) "Materially participated" means an individual was involved in the operation of a business on a basis that is regular, continuous, and substantial.

(ii) The term "materially participated" must be interpreted consistently with the applicable treasury regulations for Title 26 U.S.C. Sec. 469 of the internal revenue code, to the extent that such interpretation does not conflict with any provision of this section.

(d) "Qualified family-owned small business" means a business:

(i) In which the taxpayer held a qualifying interest for at least five years immediately preceding the sale or transfer described in

subsection (1) of this section. For the purposes of this subsection (2)(d)(i), the calculation of an individual's holding period for a qualifying interest is not reset in the event that a business either changes only its entity type or makes a nonmaterial change, or both;

(ii) In which either the taxpayer or members of the taxpayer's family, or both, materially participated in operating the business for at least five of the 10 years immediately preceding the sale or transfer described in subsection (1) of this section, unless such sale or transfer was to a qualified heir; and

(iii) That had worldwide gross revenue of $10,000,000 or less in the 12-month period immediately preceding the sale or transfer described in subsection (1) of this section. The worldwide gross revenue amount under this subsection (2)(d)(iii) shall be adjusted annually as provided in RCW 82.87.150.

(e) "Qualified heir" means a member of the taxpayer's family.

(f) "Qualifying interest" means:

(i) An interest as a proprietor in a business carried on as a sole proprietorship; or

(ii) An interest in a business if at least:

(A) Fifty percent of the business is owned, directly or indirectly, by any combination of the taxpayer or members of the taxpayer's family, or both;

(B) Thirty percent of the business is owned, directly or indirectly, by any combination of the taxpayer or members of the taxpayer's family, or both, and at least:

(I) Seventy percent of the business is owned, directly or indirectly, by members of two families; or

(II) Ninety percent of the business is owned, directly or indirectly, by members of three families.

(g) "Substantially all" means at least 90 percent. [2025 c 409 s 6; 2021 c 196 s 8.]

Automatic expiration date and tax preference performance statement exemption—2021 c 196: See note following RCW 82.87.010.

RCW 82.87.080 Charitable donation deduction. (1) In computing tax under this chapter for a taxable year, a taxpayer may deduct from the person's Washington capital gains the amount donated by the taxpayer to one or more qualified organizations during the same taxable year in excess of the minimum qualifying charitable donation amount. For the purposes of this section, the minimum qualifying charitable donation amount equals $250,000. The minimum qualifying charitable donation amount under this subsection (1) shall be adjusted pursuant to RCW 82.87.150.

(2) The deduction authorized under subsection (1) of this section may not exceed $100,000 for the taxable year. The maximum amount of the available deduction under this subsection (2) shall be adjusted pursuant to RCW 82.87.150.

(3) The deduction authorized under subsection (1) of this section may not be carried forward or backward to another tax reporting period.

(4) For the purposes of this section, the following definitions apply:

(a) "Nonprofit organization" means an organization exempt from tax under Title 26 U.S.C. Sec. 501(c)(3) of the internal revenue code.

(b) "Principally directed and managed" means the place where a qualified organization's activities are primarily directed, controlled, and coordinated.

(c) "Qualified organization" means a nonprofit organization, or any other organization, that is:

(i) Eligible to receive a charitable contribution as defined in Title 26 U.S.C. Sec. 170(c) of the internal revenue code; and

(ii) Principally directed and managed within the state of Washington. [2025 c 409 s 7; 2021 c 196 s 9.]

Automatic expiration date and tax preference performance statement exemption—2021 c 196: See note following RCW 82.87.010.

RCW 82.87.090 Other taxes. The tax imposed under this chapter is in addition to any other taxes imposed by the state or any of its political subdivisions, or a municipal corporation, with respect to the same sale or exchange, including the taxes imposed in, or under the authority of, chapter 82.04, 82.08, 82.12, 82.14, 82.45, or 82.46 RCW. [2021 c 196 s 10.]

Automatic expiration date and tax preference performance statement exemption—2021 c 196: See note following RCW 82.87.010.

RCW 82.87.100 Allocation of long-term capital gains and losses—Credit. (1) For purposes of the tax imposed under this chapter, long-term capital gains and losses are allocated to Washington as follows:

(a) Long-term capital gains or losses from the sale or exchange of tangible personal property are allocated to this state if the property was located in this state at the time of the sale or exchange. Long-term capital gains or losses from the sale or exchange of tangible personal property are also allocated to this state even though the property was not located in this state at the time of the sale or exchange if:

(i) The property was located in the state at any time during the taxable year in which the sale or exchange occurred or the immediately preceding taxable year;

(ii) The taxpayer was a resident at the time the sale or exchange occurred; and

(iii) The taxpayer is not subject to the payment of an income or excise tax legally imposed on the long-term capital gains or losses by another taxing jurisdiction.

(b) Long-term capital gains or losses derived from intangible personal property are allocated to this state if the taxpayer was domiciled in this state at the time the sale or exchange occurred.

(2)(a) A credit is allowed against the tax imposed in RCW 82.87.040 for legally imposed income or excise tax paid by the taxpayer to another taxing jurisdiction on capital gains derived from capital assets within the other taxing jurisdiction to the extent such capital gains are included in the taxpayer's Washington capital gains. The amount of credit under this subsection is the lesser of: (i) The total amount of tax due under this chapter derived from such capital assets; or (ii) the total amount of tax paid to the other taxing jurisdiction on the capital gains derived from such capital assets.

The credit under this subsection (2) is nonrefundable, and there is no carryback or carryforward of any unused credits.

(b) As used in this section, "taxing jurisdiction" means a state of the United States other than the state of Washington, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any foreign country or political subdivision of a foreign country. [2025 c 409 s 8; 2021 c 196 s 11.]

Effective date—2025 c 409 ss 3, 4, 8, 10, and 15: See note following RCW 82.87.160.

Automatic expiration date and tax preference performance statement exemption—2021 c 196: See note following RCW 82.87.010.

RCW 82.87.110 Filing of returns—Additional documentation—Penalties—Amendment of taxpayer's return. (1)(a) Except as otherwise provided in this section or RCW 82.32.080, taxpayers owing tax under this chapter must file, on forms prescribed by the department, a return with the department on or before the date the taxpayer's federal income tax return for the taxable year is required to be filed.

(b)(i) Except as provided in (b)(ii) of this subsection (1), returns and all supporting documents must be filed electronically using the department's online tax filing service or other method of electronic reporting as the department may authorize.

(ii) The department may waive the electronic filing requirement in this subsection for good cause as provided in RCW 82.32.080.

(2)(a) Every taxpayer owing tax under this chapter must include with the Washington return described in subsection (1) of this section a copy of the taxpayer's federal income tax return filed with the internal revenue service of the United States, including:

(i) All federal income tax forms, schedules, and other attachments that directly relate to the taxpayer's net long-term capital gain; and

(ii) Any information, returns, and federal tax documents received by the taxpayer that directly relate to the taxpayer's net long-term capital gain including, but not limited to, form 1099-B, schedule K-1 (form 1065), and schedule K-1 (form 1120-S).

(b) A taxpayer must provide to the department, upon request, other federal tax return information needed to verify the tax owed under this chapter.

(c) The department may prescribe by rule additional reporting or verification requirements under this subsection (2) to substantiate an individual's federal net long-term capital gain.

(3) Each taxpayer required to file a return under this section must, without assessment, notice, or demand, pay any tax due thereon to the department on or before the date fixed for the filing of the return, regardless of any filing extension. The tax must be paid by electronic funds transfer as defined in RCW 82.32.085 or by other forms of electronic payment as may be authorized by the department. The department may waive the electronic payment requirement for good cause as provided in RCW 82.32.080. If any tax due under this chapter is not paid by the due date, interest and penalties as provided in chapter 82.32 RCW apply to the deficiency.

(4)(a) In addition to the Washington return required to be filed under subsection (1) of this section, an individual claiming an exemption under RCW 82.87.050(2) must file documentation substantiating the following:

(i) The fair market value and basis of the real estate held directly by the entity in which the interest was sold or exchanged;

(ii) The percentage of the ownership interest sold or exchanged in the entity owning real estate; and

(iii) The methodology, if any, established by the entity in which the interest was sold or exchanged, for allocating gains or losses to the owners, partners, or shareholders of the entity from the sale of real estate.

(b) The department may by rule prescribe additional filing requirements to substantiate an individual's claim for an exemption under RCW 82.87.050(2). Prior to adopting any rule under this subsection (4)(b), the department must allow for an opportunity for participation by interested parties in the rule-making process in accordance with the administrative procedure act, chapter 34.05 RCW.

(5) If a taxpayer has obtained an extension of time for filing the federal income tax return for the taxable year and the taxpayer provides the department, on or before the date fixed for the filing of the return, regardless of any filing extension, evidence satisfactory to the department confirming the federal extension, the taxpayer is entitled to the same extension of time for filing the return required under this section. An extension under this subsection for the filing of a return under this chapter is not an extension of time to pay the tax due under this chapter.

(6)(a) If any return due under subsection (1) of this section, along with a copy of the federal income tax return, is not filed with the department by the due date or any extension granted by the department, the department must assess a penalty in the amount of five percent of the tax due for the taxable year covered by the return for each month or portion of a month that the return remains unfiled. The total penalty assessed under this subsection may not exceed 25 percent of the tax due for the taxable year covered by the delinquent return. The penalty under this subsection is in addition to any penalties assessed for the late payment of any tax due on the return.

(b) The department must waive or cancel the penalty imposed under this subsection if:

(i) The department is persuaded that the taxpayer's failure to file the return by the due date was due to circumstances beyond the taxpayer's control; or

(ii) The taxpayer has not been delinquent in filing any return due under this section during the preceding five calendar years and the taxpayer has not been contacted by the department for enforcement purposes regarding the reporting period covered by the waiver request.

(7) The department must waive or cancel the penalty imposed under RCW 82.32.090(1) on a payment required under this section when the circumstances under which the delinquency occurred do not qualify for waiver or cancellation under RCW 82.32.105(1) if all [of] the following apply:

(a) A taxpayer requests a waiver of penalty for a payment required under this section;

(b) The taxpayer has not been contacted by the department for enforcement purposes regarding the reporting period covered by the waiver request; and

(c) The taxpayer has timely remitted payment on all tax returns due under this section during the preceding five calendar years.

(8)(a) In the event a taxpayer's federal income tax return is changed in a manner that is final after their return required under subsection (1) of this section is filed with the department and the taypayer's [taxpayer's] federal income tax return is changed in a manner that impacts either the calculation of their Washington capital gains or their tax liability under this chapter, or both, the taxpayer must amend the taypayer's [taxpayer's] return due under subsection (1) of this section for the same tax year in which their federal income tax return is changed. For the purposes of this subsection (8), a federal income tax return is changed in a manner that is final when such change is not subject to either administrative review by the United States internal revenue service or judicial review in a court of competent jurisdiction, or both. A change is also final in the case of an audit finding in the following circumstances:

(i) The taxpayer has received audit findings from the internal revenue service for the tax period and the taxpayer does not timely file an administrative appeal with the internal revenue service.

(ii) The taxpayer consented to any of the audit findings for the tax period through a form or other written agreement with the United States internal revenue service.

(b) If the return is not amended, as required under this subsection (8), with the department within 90 days of the federal income tax return change becoming final, the department must assess on the 91st day a penalty in the amount of five percent of any additional tax due for the taxable year covered by the return for each month or portion of a month that the return is not timely amended as required by this subsection. The total penalty assessed under this subsection may not exceed 25 percent of the additional tax due for the taxable year covered by the delinquent return amendment. The penalty under this subsection (8)(b) is in addition to any penalties assessed under this section.

(9)(a) No assessment or correction of an assessment for additional taxes, penalties, or interest due may be made by the department more than four years after the year in which a return is filed under subsection (1) of this section except:

(i) When the taxpayer's federal income tax return is changed in a manner that requires an amended return under subsection (8) of this section; or

(ii) As provided in RCW 82.32.050(4).

(b) In the event the statute of limitations is extended under (a)(i) of this subsection, no assessment or correction of an assessment for additional taxes, penalties, or interest due may be made by the department more than four years after the year in which an amended return is filed with the department as required under subsection (8) of this section. Any assessment or correction of an assessment for additional taxes, penalties, or interest due under this subsection (9)(b) but made by the department more than four years after the year in which a return is filed under subsection (1) of this section must be directly related to the federal income tax return change described in subsection (8) of this section. [2025 c 409 s 9; 2021 c 196 s 12.]

Automatic expiration date and tax preference performance statement exemption—2021 c 196: See note following RCW 82.87.010.

RCW 82.87.115 Payment of tax prior to due date. (1) A taxpayer owing tax under this chapter for a taxable year may submit payment of the tax beginning six months before the due date for filing and payment for that taxable year. Payments must still be in the manner and form prescribed by the department.

(2) Interest may not be assessed for the time period before the due date if the department determines that the taxpayer overpaid the taxes owed for that taxable year and is entitled to a remittance. [2026 c 191 s 1.]

RCW 82.87.120 Joint filers—Separate filers—Tax liability. (1) If the federal income tax liabilities of both spouses are determined on a joint federal return for the taxable year, they must file a joint return under this chapter.

(2) Except as otherwise provided in this subsection, if the federal income tax liability of any individual, including either spouse of a marital community, is determined on a separate federal return for the taxable year, they must file separate returns under this chapter. State registered domestic partners may file a joint return under this chapter even if they filed separate federal returns for the taxable year.

(3) The liability for tax due under this chapter of each spouse or state registered domestic partner is joint and several, unless:

(a) The spouse is relieved of liability for federal tax purposes as provided under Title 26 U.S.C. Sec. 6015 of the internal revenue code; or

(b) The department determines that the domestic partner qualifies for relief as provided by rule of the department. Such rule, to the extent possible without being inconsistent with this chapter, must follow Title 26 U.S.C. Sec. 6015.

(4)(a) Unless the context clearly indicates otherwise, individuals who are spouses or state registered domestic partners are not considered separate taxpayers for the purposes of this chapter regardless of whether they file a joint or separate return for the tax imposed under this chapter. The activities and assets of each spouse or state registered domestic partner are combined as if they were one individual for the purposes of determining the applicability of any threshold amounts, caps, deductions, credits, or any other amounts related to the activities or assets of an individual throughout this chapter.

(b)(i) Except as provided in (b)(ii) of this subsection (4), when an individual does not file a joint return for the tax imposed under this chapter, both spouses or state registered domestic partners must allocate between themselves their respective share of the marital community's or domestic partnership's assets and activity. The allocation must be reported to the department on any returns required to be filed pursuant to this chapter in a manner prescribed by the department.

(ii) If both spouses or state registered domestic partners cannot agree on an allocation of assets and activity as authorized under (b)(i) of this subsection (4), each spouse is limited to one-half of the total assets and activities of their marital community or domestic partnership. [2025 c 409 s 10; 2021 c 196 s 13.]

Effective date—2025 c 409 ss 3, 4, 8, 10, and 15: See note following RCW 82.87.160.

Automatic expiration date and tax preference performance statement exemption—2021 c 196: See note following RCW 82.87.010.

RCW 82.87.130 Administration of taxes. Except as otherwise provided by law and to the extent not inconsistent with the provisions of this chapter, chapter 82.32 RCW applies to the administration of taxes imposed under this chapter. [2021 c 196 s 14.]

Automatic expiration date and tax preference performance statement exemption—2021 c 196: See note following RCW 82.87.010.

RCW 82.87.140 Tax criminal penalties. (1) Any taxpayer who knowingly attempts to evade payment of the tax imposed under this chapter is guilty of a class C felony as provided in chapter 9A.20 RCW.

(2) Any taxpayer who knowingly fails to pay tax, make returns, keep records, or supply information, as required under this title, is guilty of a gross misdemeanor as provided in chapter 9A.20 RCW. [2021 c 196 s 15.]

Automatic expiration date and tax preference performance statement exemption—2021 c 196: See note following RCW 82.87.010.

RCW 82.87.150 Annual adjustments. (1) Beginning October 2025 and each October thereafter, the department must adjust the applicable amounts by multiplying the current applicable amounts by one plus the percentage by which the most current consumer price index available on October 1st of the current year exceeds the consumer price index for the prior 12-month period, and rounding the result to the nearest $1,000. If an adjustment under this subsection (1) would reduce the applicable amounts, the department must not adjust the applicable amounts for use in the following year. The department must publish the adjusted applicable amounts on its public website by October 31st.

(a) Except as provided in (b) of this subsection, the adjusted applicable amounts calculated under this subsection (1) take effect for taxes due and distributions made, as the case may be, in the following calendar year.

(b) The adjusted applicable amounts calculated under this subsection (1) for the distribution amount described in subsection (2)(a)(i) of this section apply to distributions made in the following fiscal year.

(2) For purposes of this section, the following definitions apply:

(a) "Applicable amounts" means:

(i) The distribution amount to the education legacy trust account as provided in RCW 82.87.030(1)(a);

(ii) The standard deduction amount in RCW 82.87.020(16) and 82.87.060(1);

(iii) The worldwide gross revenue amount under RCW 82.87.070; and

(iv) The minimum qualifying charitable donation amount and maximum charitable donation amount under RCW 82.87.080.

(b) "Consumer price index" means the consumer price index for all urban consumers, all items, for the Seattle area as calculated by the United States bureau of labor statistics or its successor agency.

(c) "Seattle area" means the geographic area sample that includes Seattle and surrounding areas. [2025 c 409 s 11; 2021 c 196 s 17.]

Automatic expiration date and tax preference performance statement exemption—2021 c 196: See note following RCW 82.87.010.

RCW 82.87.160 Credit—Sale or exchange of long-term capital assets—Transfer from general fund. (1) Beginning in tax year 2025 with taxes due in 2026, to avoid taxing the same sale or exchange under both the business and occupation tax and capital gains tax, a nonrefundable credit is allowed against taxes due under this chapter on a sale or exchange that is also subject to the tax imposed under chapter 82.04 RCW. The credit is equal to the amount of tax imposed under chapter 82.04 RCW on such sale or exchange.

(2) The credit under this section is earned in regards to a sale or exchange, and may be claimed against taxes due under this chapter, for the tax reporting period in which the sale or exchange occurred. The credit claimed for a tax reporting period may not exceed the tax otherwise due under this chapter for that tax reporting period. Unused credit may not be carried forward or backward to another tax reporting period. No refunds may be granted for unused credit under this section.

(3)(a) By the last working day in March, June, September, and December of each fiscal year, the state treasurer must transfer from the general fund to the education legacy trust account created in RCW 83.100.230 and the common school construction fund, as applicable, an amount equal to the reduction in capital gains taxes due to this section, as determined by the department under (b) of this subsection (3). Moneys transferred from the general fund pursuant to this subsection (3)(a) must be distributed as provided in RCW 82.87.030 as if they were taxes collected under this chapter.

(b)(i) The department must notify the state treasurer of the amounts required to be transferred as provided in (a) of this subsection (3) no later than two weeks before the deadline for such transfers or such other date as may be mutually agreed to by the department and the state treasurer.

(ii) If the department determines, at any time, that a previous transfer amount determined under this subsection (3)(b) was overstated or understated for any reason, including an error in calculation by the department or a reporting error by the taxpayer, the department must adjust its calculation of the current amount to be transferred by an amount necessary to offset the previous overstatement or understatement.

(iii) No person may contest the department's determination under this subsection (3)(b) in any court more than 15 days after the department furnishes notice of such determination to the state treasurer. Any action contesting the department's determination must be made through a petition for judicial review pursuant to the administrative procedure act, chapter 34.05 RCW, and may only be filed

in Thurston county. The person seeking judicial review is not required to exhaust any available administrative remedies.

(c) For purposes of this subsection (3), "reduction in capital gains taxes due to this section" means the reduction in taxes collected under this chapter due to the nonrefundable credit in this section, where such amounts have not already been offset by the transfer required by (a) of this subsection (3). [2025 c 409 s 3.]

Reviser's note: The tax preference enacted in 2025 c 409 s 3 expires January 1, 2037, pursuant to the automatic expiration date established in RCW 82.32.805(1)(a).

Effective date—2025 c 409 ss 3, 4, 8, 10, and 15: "Sections 3, 4, 8, 10, and 15 of this act take effect January 1, 2026." [2025 c 409 s 16.]

Application—2025 c 409: "(1) The expiration of RCW 82.04.4497 provided in RCW 82.04.4497(5) does not affect:

(a) Any existing right acquired or liability or obligation including, but not limited to:

(i) A taxpayer's liability for tax, penalty, or interest;

(ii) A taxpayer's ability to claim a credit under RCW 82.04.4497 earned from sales or exchanges that occurred before the expiration of RCW 82.04.4497; or

(iii) A taxpayer's ability to claim relief from tax, penalty, or interest;

(b) Any rule or order adopted under RCW 82.04.4497; or

(c) Any proceeding instituted under RCW 82.04.4497.

(2) For purposes of this section, "liability for tax" means that the obligation for payment of a tax has been incurred by a taxpayer, regardless of when the tax is payable or whether the amount of tax due has been established." [2025 c 409 s 2.]

RCW 82.87.170 Brokers and barter exchanges—Submission of form 1099-B—Penalty—Allocation to state of long-term capital gains. (1) Except as otherwise provided in this section, brokers and barter exchanges must provide all copies of United States internal revenue service form 1099-B, or any successor form if so renamed, electronically to the department for sales or exchanges of long-term capital assets for which:

(a) The long-term capital gain from such sales or exchanges is allocated to this state under RCW 82.87.100(1); and

(b) The broker or barter exchange is the payor.

(2) Copies of the form under subsection (1) of this section must be provided to the department no later than 90 days of filing the form with the internal revenue service and in a manner prescribed by the department.

(3) Brokers and barter exchanges that fail to comply with the requirement under subsection (1) of this section, or willfully file a false or fraudulent copy of United States internal revenue service form 1099-B, are subject to a penalty of $50 for each such failure or each such filing.

(4) A rebuttable presumption exists that the long-term capital gains from a sale or exchange is allocated to this state under any one of the following circumstances:

(a) The payee's last known place of domicile to the payor is located in this state;

(b) The payee's address on file with the broker or barter exchange is located in this state;

(c) The payee's address on their United States internal revenue service form 1099-B, or any successor form if so renamed, is located in this state;

(d) The payee's account with the broker or barter exchange was opened in this state; or

(e) The payee makes use of a broker or barter exchanges' physical place of business in this state.

(5) For the purposes of this section, the following definitions apply unless the context clearly indicates otherwise.

(a) "Broker" and "barter exchange" have the same meaning as provided by Title 26 U.S.C. Sec. 6045 of the internal revenue code.

(b) "Long-term capital asset" has the same meaning as provided under RCW 82.87.020.

(c) "Payee" means the person for which a broker or barter exchange files a United States internal revenue service form 1099-B.

(d) "Payor" means a broker or barter exchange that files a United States internal revenue service form 1099-B for a payee.

(e) "Resident" has the same meaning as provided under RCW 82.87.020. [2025 c 409 s 15.]

Effective date—2025 c 409 ss 3, 4, 8, 10, and 15: See note following RCW 82.87.160.