

Multiple Agency Fiscal Note Summary

Bill Number: 5111 SB	Title: Excise Tax on Capital Gains
-----------------------------	---

Estimated Cash Receipts

Agency Name	2017-19		2019-21		2021-23	
	GF- State	Total	GF- State	Total	GF- State	Total
Department of Revenue	(29,000,000)	821,000,000	(66,000,000)	1,848,000,000	(71,000,000)	2,022,000,000
Total \$	(29,000,000)	821,000,000	(66,000,000)	1,848,000,000	(71,000,000)	2,022,000,000

Estimated Expenditures

Agency Name	2017-19			2019-21			2021-23		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Administrative Office of the Courts	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Department of Revenue	14.5	3,920,100	3,920,100	26.1	7,450,000	7,450,000	30.1	7,001,500	7,001,500
Total	14.5	\$3,920,100	\$3,920,100	26.1	\$7,450,000	\$7,450,000	30.1	\$7,001,500	\$7,001,500

Local Gov. Courts *	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Loc School dist-SPI									
Local Gov. Other **	Fiscal note not available								
Local Gov. Total									

Estimated Capital Budget Impact

NONE

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). A fiscal analysis was prepared to show the projected ten-year cost to tax or fee payers of the proposed taxes or fees. The ten-year projection can be viewed at <http://www.ofm.wa.gov/tax/default.asp>

Prepared by: Kathy Cody, OFM	Phone: (360) 902-9822	Date Published: Revised 1/20/2017
-------------------------------------	---------------------------------	---

* See Office of the Administrator for the Courts judicial fiscal note

** See local government fiscal note

FNPID: 44871

Judicial Impact Fiscal Note

Bill Number: 5111 SB	Title: Excise Tax on Capital Gains	Agency: 055-Administrative Office of the Courts
-----------------------------	---	--

Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

Account	FY 2018	FY 2019	2017-19	2019-21	2021-23
Counties					
Cities					
Total \$					

Estimated Expenditures from:

Non-zero but indeterminate cost. Please see discussion.

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). A fiscal analysis was prepared to show the projected ten-year cost to tax or fee payers of the proposed taxes or fees. The ten-year projection can be viewed at

<http://www.ofm.wa.gov/tax/default.asp>

The revenue and expenditure estimates on this page represent the most likely fiscal impact. Responsibility for expenditures may be subject to the provisions of RCW 43.135.060.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.

Legislative Contact: Dean Carlson	Phone: (360)786-7305	Date: 01/11/2017
Agency Preparation: Sam Knutson	Phone: 360-704-5528	Date: 01/16/2017
Agency Approval: Sam Knutson	Phone: 360-704-5528	Date: 01/16/2017
OFM Review: Gwen Stamey	Phone: (360) 902-9810	Date: 01/16/2017

Request # 5111 SB-2

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact on the Courts

Please see attached Judicial Impact Note (JIN).

II. B - Cash Receipts Impact

II. C - Expenditures

Part III: Expenditure Detail

Part IV: Capital Budget Impact

Part II: Narrative Explanation

This bill would impose a tax on individuals for the privilege of:

- 1) Selling or exchanging long-term capital assets; or
- 2) Receiving Washington capital gains.

The Administrative Office of the Courts (AOC) reviewed data provided by the Department of Revenue (DOR) regarding the number of potential cases that could be filed for capital gains tax evasion. Based on data provided by DOR, there will be fewer than ten cases filed per year.

Fiscal impact on the courts is indeterminate, but expected to be minimal.

Department of Revenue Fiscal Note

Bill Number: 5111 SB	Title: Excise Tax on Capital Gains	Agency: 140-Department of Revenue
-----------------------------	---	--

Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

Account	FY 2018	FY 2019	2017-19	2019-21	2021-23
GF-STATE-State 01 - Taxes 05 - Bus and Occup Tax		(29,000,000)	(29,000,000)	(66,000,000)	(71,000,000)
Education Legacy Trust Account-State 00 - 00 -		850,000,000	850,000,000	1,800,000,000	1,800,000,000
NEW-State 00 - 00 -				114,000,000	293,000,000
Total \$		821,000,000	821,000,000	1,848,000,000	2,022,000,000

Estimated Expenditures from:

Account	FY 2018	FY 2019	2017-19	2019-21	2021-23
FTE Staff Years	9.6	19.3	14.5	26.1	30.1
GF-STATE-State 001-1	1,100,600	2,819,500	3,920,100	7,450,000	7,001,500
Total \$	1,100,600	2,819,500	3,920,100	7,450,000	7,001,500

Estimated Capital Budget Impact:

NONE

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). A fiscal analysis was prepared to show the projected ten-year cost to tax or fee payers of the proposed taxes or fees. The ten-year projection can be viewed at

<http://www.ofm.wa.gov/tax/default.asp>

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact:	Dean Carlson	Phone: (360)786-7305	Date: 01/11/2017
Agency Preparation:	Stephen Cleverdon	Phone: 360-534-1507	Date: 01/17/2017
Agency Approval:	Don Gutmann	Phone: 360-534-1510	Date: 01/17/2017
OFM Review:	Kathy Cody	Phone: (360) 902-9822	Date: 01/17/2017

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe, by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

Beginning January 1, 2018, a tax is imposed on all individuals for the privilege of selling or exchanging long-term capital assets, or of receiving Washington capital gains. The tax equals 7.90 percent multiplied by the individual's Washington capital gains.

Deductions allowed in determining the tax are:

- \$25,000; or
- \$50,000 for individuals filing joint returns.

The capital gains tax does not apply to the following:

- The gain on the sale of "residential dwellings," which means property consisting solely of a single-family residence, a residential condominium unit, a residential cooperative unit, or a floating home as defined in RCW 82.45.032.
- Capital gains received from retirement accounts.
- Capital gains from the sale or exchange of assets subject to eminent domain or sold or exchanged under imminent threat of eminent domain.
- The sale or exchange of cattle, horses, or breeding livestock held for more than 12 months by farmers.
- The sale or exchange of agricultural land by an individual meeting certain requirements.
- The sale or exchange of property used in a business and that would qualify for an income tax deduction under IRC sections 167 or 179.
- The sale or exchange of timber, 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.

These exemptions are not subject to the transparency and accountability provisions of RCW 82.32.805 and 82.32.808, including the 10-year expiration date.

A deduction is provided for amounts that the state is prohibited from taxing under federal law or the constitutions of the United States or state of Washington.

Rules of allocation:

- Adjusted capital gains from the sale or exchange of real property are allocated to this state if the real property or a majority of the fair market value of the real property is located in this state at the time of sale or exchange.
- Adjusted capital gains from the sale or exchange of intangible personal property are allocated to this state if the taxpayer was domiciled in this state at the time of sale or exchange.
- Adjusted capital gains from the sale or exchange of tangible personal property are allocated to this state if the tangible personal property is located in the state at the time of sale, OR- The property sold or exchanged was located in this state at any time during the taxable year in which the sale or exchange occurred or the immediately preceding calendar year;
- The taxpayer was a Washington resident at the time of sale or exchange; and
- Taxpayer is not subject to the payment of an income or excise tax on the adjusted capital gains to another jurisdiction.

Individuals are allowed a credit equal to the amount of tax paid to another taxing jurisdiction on capital gains derived from sources within the other taxing jurisdiction to the extent the capital gains are included in the measure of the Washington capital gains tax.

Washington capital gains tax returns and payments are due at the same time that the taxpayer's federal income tax return for the taxable year is due. Individuals receiving a federal tax filing extension also qualify for a state capital gains tax filing extension, but the tax is still due on the original filing date.

A business and occupation (B&O) tax deduction is created to avoid taxing the same amounts under both the B&O and capital gains taxes. Revenue, including penalties and interest, exceeding \$900 million in a fiscal year is deposited in a school investment fund created in the state treasury. Such funds cannot be transferred into the education legacy trust account unless revenue for the fiscal year falls below \$900 million.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

ASSUMPTIONS:

- Approximately 48,000 taxpayers pay capital gains taxes for taxes due in 2019.
- Approximately 50 percent of capital gains subject to this tax are considered business income and are also taxable under the business and occupation (B&O) tax. The capital gain income subject to B&O tax qualifies for a B&O tax deduction.
- The capital gains tax is imposed effective January 1, 2018.
- The first annual returns will be due April 15, 2019.
- No estimated payments or withholding during the year is required.
- Compliance is expected to be 90 percent in the first year and 95 percent thereafter.

DATA SOURCES:

- Capital gains data from 2014 federal income tax returns.
- Capital gains amounts are forecasted using Global Insight change in equities for 2015 to 2023.
- Department of Revenue excise tax return data.
- November 2016 revenue forecast.

REVENUE ESTIMATES

TOTAL REVENUE IMPACT:

State Government (cash basis, \$000):

FY 2018 -	\$	0
FY 2019 -	\$	821,000
FY 2020 -	\$	901,000
FY 2021 -	\$	947,000
FY 2022 -	\$	992,000
FY 2023 -	\$	1,030,000

Local Government, if applicable (cash basis, \$000): None

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

ASSUMPTIONS:

- This proposal affects 48,000 taxpayers
- No estimated payments will be required

FIRST YEAR COSTS:

The Department of Revenue (Department) will incur total costs of \$1,100,600 in Fiscal Year 2018. These costs include:

Labor Costs - Time and effort equates to 9.6 FTEs.

- Additional staff to create two new administrative rules and amend one administrative rule,
- Provide technical advice and interpretation services,

- Program, setup, test and verify computer systems to accept taxpayer returns and other required information and process reporting information for collection, audit, and refund purposes,
- Staff to answer taxpayer phone calls, letters, and email inquiries,
- Update and maintain hard copy and online educational and informational materials,
- Ongoing taxpayer workshops and education,
- Establish new reporting accounts for capital gains taxpayers,
- Resolve error and out-of-balance returns, conduct desk audits, prepare refunds and assessments,
- Collect delinquent assessments as a result of return errors, and
- Prepare for and conduct internal reviews of disputed notices and assessments.

Object Costs - \$125,200.

- Purchase additional server equipment,
- Print and mail a special notice to affected taxpayers,
- Printing informational booklets regarding the capital gains tax,
- Printing and mailing returns, assessments, penalty waivers, amended returns, refunds, and correspondence,
- Filing fees for tax warrants, and
- Provide Department representation by the Attorney General's Office.

SECOND YEAR COSTS:

The Department will incur total costs of \$2,819,500 in Fiscal Year 2019. These costs include:

Labor Costs - Time and effort equates to 19.3 FTEs.

- Provide technical advice and interpretation services,
- Program, setup, test, and verify computer systems to accept taxpayer returns and other required information and process reporting information for collection, audit, and refund purposes,
- Staff to answer taxpayer phone calls, letters, and email inquiries,
- Update and maintain hard copy and online educational and informational materials,
- Ongoing taxpayer workshops and education,
- Establish new reporting accounts for capital gains taxpayers,
- Resolve error and out-of-balance returns, conduct desk audits, prepare refunds and assessments,
- Collect delinquent assessments as a result of return errors, and
- Prepare for and conduct internal reviews of disputed notices and assessments.

Object Costs - \$1,094,496.

- Purchase contract services,
- Print and mail a special notice to affected taxpayers,
- Printing informational booklets regarding the capital gains tax,
- Printing and mailing returns, assessments, penalty waivers, amended returns, refunds, and correspondence,
- Filing fees for tax warrants, and
- Provide Department representation by the Attorney General's Office.

ONGOING COSTS:

Ongoing costs for the 2019-21 Biennium equal \$7,450,000 and include similar activities described in the second year costs. Time and effort equates to 26.1 FTEs.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2018	FY 2019	2017-19	2019-21	2021-23
FTE Staff Years	9.6	19.3	14.5	26.1	30.1
A-Salaries and Wages	617,500	1,093,300	1,710,800	2,724,800	3,138,400
B-Employee Benefits	185,200	327,900	513,100	817,300	941,600
E-Goods and Other Services	195,500	296,300	491,800	723,300	758,700
G-Travel		2,600	2,600	8,100	15,000
J-Capital Outlays	102,400	99,400	201,800	176,500	147,800
P-Debt Service		1,000,000	1,000,000	3,000,000	2,000,000
Total \$	\$1,100,600	\$2,819,500	\$3,920,100	\$7,450,000	\$7,001,500

III. B - Detail: List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA

Job Classification	Salary	FY 2018	FY 2019	2017-19	2019-21	2021-23
ADM ASST 5	49,308	0.0		0.0		
COMMUNICATIONS CNSLT 4	57,144	0.5	0.3	0.4		
EMS BAND 4	108,926	0.0		0.0		
EMS BAND 5	127,250	0.0		0.0		
EXCISE TAX EX 2	44,652	0.5	1.0	0.8	1.0	1.0
EXCISE TAX EX 3	53,016	0.3	4.0	2.2	8.5	9.5
EXCISE TAX EX 4	58,548	0.3	0.5	0.4	1.0	1.0
FISCAL ANALYST 3	49,308		0.1	0.1	0.1	0.1
FORMS AND RECORDS ANALYST 3	45,684	0.5		0.3		
HEARINGS SCHEDULER	34,284	0.0		0.0		
INFO TECH S/A S 6	80,724	1.0	1.0	1.0	0.5	0.5
IT SPEC 3	60,012	0.5		0.3		
IT SPEC 4	66,264	1.0	1.0	1.0	0.5	0.5
IT SPEC 5	73,140	1.0	1.0	1.0	0.5	0.5
OFF ASST 3	31,224		1.0	0.5	2.0	2.0
REVENUE AGENT 2	49,308		0.6	0.3	1.6	4.5
REVENUE AGENT 3	54,384		1.0	0.5	1.0	1.0
REVENUE AGENT 4	57,144		1.0	0.5	1.0	1.0
SEC SR	32,688		0.1	0.1	0.1	0.1
TAX INFO SPEC 1	38,544	0.7	0.5	0.6	0.2	0.1
TAX INFO SPEC 4	57,144	0.5	0.5	0.5	0.2	0.1
TAX POLICY SP 2	64,620	0.0		0.0		
TAX POLICY SP 3	73,140	2.3	2.7	2.5	2.0	1.9
TAX POLICY SP 4	78,732	0.3	0.5	0.4	0.4	0.3
TAX SERV REP 2	35,928		2.0	1.0	4.0	4.0
WMS BAND 1	66,170	0.1	0.5	0.3	1.5	2.0
Total FTE's	1,547,286	9.6	19.3	14.5	26.1	30.1

Part IV: Capital Budget Impact

None.

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

Should this legislation become law, the Department will use the complex process to adopt a new rule in WAC 458-20-XXX, and the standard process to adopt a new rule in WAC 458-20-XXX. Should this legislation become law, the Department will use the expedited process to amend WAC 458-20-19403, titled: "Financial institutions - Income apportionment" (amending

Request # 5111-1-1

existing rule). Persons affected by this rule making would include service professionals, including lawyers, doctors, and investment fund managers; high-income earners; and persons with significant investments in equities and other capital assets.