

SENATE BILL REPORT

ESB 5111

As Failed Senate, April 21, 2017

Title: An act relating to enacting an excise tax on capital gains to improve the fairness of Washington's tax system and provide funding for the education legacy trust account.

Brief Description: Enacting an excise tax on capital gains to improve the fairness of Washington's tax system and provide funding for the education legacy trust account.

Sponsors: Senators Braun, Ranker and Hunt; by request of Office of Financial Management.

Brief History:

Committee Activity: Ways & Means: 2/24/17 [w/oRec].

Floor Activity:

Failed Senate: 0-48.

Brief Summary of Engrossed Bill

- Creates a 7 percent tax on capital gains deposited into the Education Legacy Trust account.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That it be referred without recommendation.

Signed by Senators Braun, Chair; Brown, Vice Chair; Rossi, Vice Chair; Honeyford, Vice Chair, Capital Budget ; Bailey, Becker, Fain, Miloscia, Rivers, Schoesler, Warnick and Zeiger.

Staff: Dean Carlson (786-7305)

Background: A capital gains tax (CGT) is a tax on the profit realized on the sale of non-inventory assets that are purchased at a lower price than the sales price. The most common capital gains are realized from the sale of stocks, bonds, and real estate. Under the federal tax code, individuals and corporations pay income tax on the net total of all their capital gains just as they do on other sorts of income. The amount of federal CGT depends on both the tax bracket of the individual and the amount of time the capital asset was held before being sold. Short-term capital gains are taxed at the individual's ordinary income tax rate, and are defined as capital assets held for a year or less before being sold. Currently, long-

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term capital gains are generally taxed at a preferential rate in comparison to ordinary income for federal income tax purposes.

In addition to the federal tax, capital gains are often subject to state income taxes. Most states do not have separate CGT rates. Instead, most states tax capital gains as ordinary income subject to the state's income tax rates.

Summary of Engrossed Bill: A tax on individuals for the privilege of selling or exchanging capital assets. The tax is equal to 7 percent multiplied by a person's Washington capital gains for each taxable year.

The following threshold exemptions are allowed in determining the tax:

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

The CGT does not apply to any of the following:

- the gain on the sale of all single family residential real property;
- 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 of agricultural and timber land that meets the criteria under Internal Revenue Code (IRC) section 469(h) for the ten years prior to the date of the sale;
- the sale of tangible personal property used in a business that would qualify for an income tax deduction for depreciation; or
- the sale of timber for which the taxpayer makes an election under IRC section 631(a) or (b).

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 CGT.

A business and occupation (B&O) deduction is created to avoid taxing the same amounts under both the B&O and CGTs.

CGT returns and payments are due at the same time that the taxpayer's federal income tax return for the taxable year is due.

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

Revenues are deposited into the Education Legacy Trust account.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: No public hearing was held.

Persons Testifying: N/A.

Persons Signed In To Testify But Not Testifying: N/A.