

Comparison of House, Senate, and Proposed Conference Committee Version of ESSB 5096

Brief Summary:

- Makes changes to intent section;
- Caps annual distribution to Education Legacy Trust Account at \$500M (annually adjusted) with remaining tax proceeds being deposited into the Common School Construction Account; and
- Provides a charitable donation deduction of up to \$100K (annually adjusted) for the tax year for taxpayers donating at least \$250K (annually adjusted) to qualified nonprofit organizations that tax year.

Topic	ESSB 5096 As Passed Senate March 6, 2021	House Version (H-1547.E) As Amended by the House April 21, 2021	Proposed Conference Striking Amendment (H-1637.1)
Intent section	<p>(1) The legislature 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 begin to rebalance the tax code, the legislature intends to enact an excise tax on the sale of certain capital assets.</p> <p>(2) The excise tax on capital gains is a tax on the one-time, voluntary sale or exchange of a capital asset, not a tax on ownership of the asset itself. This excise tax is paid only by those individuals who engage in voluntary sales or exchanges of Washington capital assets, either directly or indirectly through their ownership interest in an entity that engages in voluntary sales or exchanges of Washington capital assets, and is measured by the realization of significant net gain on the aggregate of such transactions during the taxable year. In order to protect against further regressive impacts of the tax system, encourage the everyday investments that Washingtonians of all income levels strive for, and support our economy, this excise tax will not apply to capital gains realized by certain sales and transfers.</p>	<p>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 this act to the education legacy trust account.</p> <p>The legislature intends to levy a seven percent tax on the privilege of voluntarily selling or exchanging 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.</p> <p>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.</p>	<p>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 a high quality education, including 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 this act to the education legacy trust account and the school construction account.</p> <p>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</p>

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	<p>(3) To help meet the state's obligations to its people, the legislature dedicates the first \$350,000,000 in revenue collected from this excise tax to the state's education legacy trust account. This funding is critically needed to provide support for education, especially early learning and child care, and to provide for the economic security of low-income households who are struggling to afford quality child care and preschool. Furthermore, the legislature finds that increasing taxes on the wealthiest residents is only one-half of the effort to rebalance the tax code. In an effort to both reduce the tax burden on those earning the least and to account for anticipated volatility in revenue collections from the capital gains excise tax, revenue received above base levels will be deposited into the taxpayer fairness account. Revenues deposited in this account will be used to offset existing tax burdens via policies such as funding of the working families' tax exemption.</p>		<p>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.</p> <p>To help meet the state's paramount duty, the legislature intends to levy a seven percent tax on the voluntary sale or exchange 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.</p> <p>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.</p>
Tax Effective Date	January 1, 2022	Same as Senate version.	Same as Senate version.
Standard Deduction	\$250K per tax return (annually adjusted)	Same as Senate version but adds clarifying language that standard deduction of \$250K per return applies to spouses and domestic partners regardless of whether they file joint or separate returns.	Same as House version.

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Tax Rate	7%	Same as Senate version.	Same as Senate version.
Purpose of Tax	N/A	Tax is necessary for the support of state government and its existing public institutions.	Same as House version.
Tax Applies To	Individuals (natural persons), beneficial owners of pass-through/disregarded entity, and grantors of an incomplete gift nongrantor trust.	Same as Senate version.	Same as Senate version.
Exemptions	All real estate, defined as any interest in land or anything affixed to land, but specifically excluding an individual's ownership interest in an entity which itself owns an interest in real property. The term includes used mobile homes, used park model trailers, used floating homes, and improvements constructed upon leased land.	All real estate, meaning land and fixtures affixed to the land, plus used mobile homes, used park model trailers, used floating homes and improvements constructed upon leased land.	Same as House version.

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	Controlling interest in an entity to the extent that the gain or loss from the controlling interest sale is directly attributable to the entity's interest in real property.	Sale of an interest in an entity owning real property: An interest in any privately held entity but 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.	Same as House version.
	Goodwill received from sale of auto dealership.	Same as Senate version.	Same as Senate version.
	Retirement accounts such as 401(k), Roth IRAs.	Same as Senate version.	Same as Senate version.
	Condemned property.	Same as Senate version.	Same as Senate version.
	Cattle, horse, livestock sold by farmers or ranchers.	Same as Senate version.	Same as Senate version.
	Timber, timberland, or REIT distributions from timber and timberland sales.	Same as Senate version.	Same as Senate version,
	N/A	Commercial fishing privileges.	Same as House version.

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Charitable Donations Deduction	None	None	Deduction for charitable donations in same tax year in excess of \$250K. The amount a taxpayer may deduct from their WA adjusted capital gain per year is capped at \$100K.
Qualified Family-Owned Small Business Deduction	Held qualifying interest for 8 years immediately preceding the sale of a business with world-wide gross revenue of \$10M or less, <u>adjusted annually for inflation</u> , in 12 months immediately preceding. The individual, or a member of the individual's family, must have materially participated in the operation of the business for at least 5 of the 8 years immediately preceding the sale unless the individual is selling the business to a family member.	Similar to Senate version, except must hold qualifying interest for 5 years immediately preceding sale instead of 8 years and materially participated in 5 of the 10 years immediately preceding the sale	Same as House version.
Credits	Other income or excise taxes paid to another taxing jurisdiction on sale.	Same as Senate version.	Same as Senate version.
Informational Returns	DOR can require taxpayers to file informational returns.	Removes requirement.	Same as House version.

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B&O Credit	Credit allowed against B&O taxes due for taxes paid on capital gain for the same sale or exchange of a capital asset.	Same as Senate version.	Same as Senate version.
Revenue Distributions	Amounts distributed in following order: 1. ELTA \$350M 2. GF-S \$100M 3. Remainder to Taxpayer Fairness Account. (note: amounts annually adjusted for inflation)	All proceeds to ELTA	\$500M per FY to ELTA Remainder each FY to Common School Construction Account. (note: amounts annually adjusted for inflation)
Effective Date	90 days	Same as Senate version.	Same as Senate version.