

SUMMARY OF INITIATIVE 2109 TO THE LEGISLATURE

As of September 3, 2024

This document has been prepared by Senate Committee Services in response to requests for a summary of Initiative 2109 to the Legislature and is provided for legislative purposes only. It is not provided as an expression of support of or opposition to the ballot measure. This document is intended to provide general information and is not intended to be an exhaustive analysis of all issues presented by the measure or be considered legislative history for interpreting Initiative 2109. It is inappropriate to use public resources to support or oppose a ballot measure. Refer to the Legislative Ethics Manual or contact Senate Counsel for further guidance.

Brief Summary

- Repeals the Washington capital gains tax.

Background: Initiative Process. Article II, Section 1, of the Washington State Constitution authorizes the initiative process, allowing the people to place a proposition on the ballot or to submit the proposed law to the Legislature. If an initiative to the Legislature is certified, the Legislature must take one of the following three actions:

- adopt the initiative as proposed, in which case it becomes law without a vote of the people;
- reject or take no action on the measure; in either case the measure will automatically appear on the ballot in the next state general election; or
- propose an alternative measure, in which case the initiative and alternative will both appear on the ballot as competing measures in the next state general election.

In January of 2024, the Secretary of State certified Initiative 2109 relating to the Washington capital gains tax. The Legislature took no action on the measure during the 2024 legislative session. Therefore, it will appear on the November 2024 general election ballot.

Ballot Title and Ballot Measure Summary Prepared by the Attorney General. The ballot title and ballot measure summary are prepared by the Washington State Office of the Attorney General and will read as follows:

Ballot Title.

Initiative Measure No. 2109 concerns taxes. This measure would repeal an excise tax imposed on the sale or exchange of certain long-term capital assets by individuals who have annual capital gains of over \$250,000. This measure would decrease funding for K-12 education, higher education, school construction, early learning, and childcare.

Should this measure be enacted into law? Yes [] No []

Ballot Measure Summary.

This measure would repeal an excise tax imposed on the sale or exchange of certain long-term capital assets by individuals who have annual capital gains of over \$250,000.

Washington State Capital Gains Tax. In 2021, the Washington State Legislature passed ESSB 5096 which created a 7 percent tax on the sale or exchange of long-term capital assets such as stocks, bonds, business interests, or other investments and tangible assets. The tax was effective January 1, 2022, with the first tax payments and returns due in April 2023.

The tax applies only to individuals; however, individuals may be liable for their ownership interest in a pass-through or disregarded entity, such as a partnership or limited liability company that sells or exchanges long-term capital assets. The tax only applies to gains allocated to Washington State. The capital gains tax return and the individual's federal income tax return are due at the same time.

There are several deductions and exemptions available that may reduce the taxable amount of long-term gains, including an annual standard deduction of \$250,000 per individual. In the case of spouses or domestic partners, the combined standard deduction is limited to \$250,000 regardless of whether they file joint or separate returns.

Yearly revenues from the capital gains tax, and any associated interest and penalties, are deposited as follows:

- the first \$500 million into the Education Legacy Trust Account (ELTA); and
- the remainder into the Common School Construction Account.

Beginning with taxes due and payable in 2024, the \$250,000 standard deduction and \$500 million ELTA distribution are adjusted annually for inflation.

Summary of Initiative: The Washington capital gains tax is repealed.

Effective Date: The initiative takes effect 30 days after the election at which it is approved.

Staff: Jeffrey Mitchell (786-7438)