

Washington Capital Gains Tax Revenue Falls in Second Year

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By Paul Jones

Washington's capital gains tax has generated \$433 million in its second year, well below collections in its first year.

The reason for the revenue drop isn't immediately clear, but both proponents and opponents note that the tax — which is on high earners' capital gains and goes to education and early-learning programs — is inherently less stable than the state's other levies. The tax generated almost \$800 million in its first year.

"The tax is very highly concentrated on a small number of the wealthiest Washingtonians," Misha Werschkul with the progressive Washington State Budget & Policy Center told *Tax Notes* May 22. "While that's good for equity reasons, it does mean it'll fluctuate more than other taxes."

The Department of Revenue provided the numbers to Tax Notes in a May 23 email. However, the numbers will be adjusted as extensions and refunds are factored in. The initial tally is a drop-off from last year's \$786 million, which was paid by roughly 4,000 taxpayers, according to the DOR.

Notably, the department initially [reported in January](#) that the tax brought in \$896 million from 3,895. The final number was reduced after refunds and other adjustments.

The abrupt change in collections for tax year 2023 could impact the state budget. But Mike Faulk of the office of Gov. Jay Inslee (D) told *Tax Notes*, "We need to see the complete forecast to determine the impact on the current and next budgets."

The revenue fluctuation underscores the volatility of the tax, which [was enacted](#) in 2021 and imposes a 7 percent levy on the amount of taxpayers' annual long-term Washington capital gains over \$250,000 (\$262,000 in 2023).

"Washington's tax code is very stable overall with property and sales taxes," Werschkul said. She noted that lawmakers had anticipated that the capital gains tax — which is a more progressive revenue source compared to the state's other major taxes — would generate more variable revenues. The first \$500 million of the tax's revenue for each fiscal year goes into the Education Legacy Trust Account to fund the programs it was primarily enacted to support, ensuring those will be prioritized and hedging against potentially variable revenue.

"The tax is then also paired with other revenue sources" that support the Education Legacy Trust Account, Werschkul said, another safeguard to ensure consistent funding for early learning.

Werschkul also said that the tax's implementation has been complicated by legal challenges, which culminated in the state supreme court's decision [in March 2023](#) upholding it as a lawful excise tax, rather than an unconstitutionally nonuniform tax on income. That multiyear court battle may have influenced taxpayers' behavior and their decisions regarding realization of capital gains, she said.

"I think that level of uncertainty has also potentially impacted how and when people are selling assets — whether they're expecting to pay the tax or not," Werschkul said. "Last year's collection was significantly higher than forecasted, this year [revenue] dropped, but the biennial number" — \$1.2 billion for the 2023-2025 biennium — "is fairly on track with original estimates," she added.

However, Rep. Chris Corry (R), the ranking minority member on the House Appropriations Committee, said May 22 that the tax's volatility could also indicate that higher-income taxpayers are working to minimize their liability.

"As the lead Republican on the budget, I warned my colleagues that these taxes are incredibly volatile" and that after high first-year revenues resulting from taxpayers not realizing that they were subject to the tax, people would make decisions to avoid the levy, Corry said. "I think that's partially what the drop-off is," he added.

Opponents of the capital gains tax have warned that it could lead to some wealthy taxpayers considering relocation. Corry noted that Amazon founder Jeff Bezos's decision to relocate to Florida in 2023 means that he will avoid the tax on his subsequent long-term capital gains.

A measure to repeal the tax — [I-2109](#) — will [go before voters](#) in November. Corry, who is also the Eastern Washington Director of the conservative Washington Policy Center, backs the ballot measure, saying that he believes Washingtonians will support a repeal because of long-standing opposition to progressive taxes on income in the state. He also noted a bill introduced in the recent session proposed lowering the level at which capital gains are taxed, predicting that Democrats will continue to push for such a reform and that the tax ultimately will be expanded and assessed on more residents' gains.

However, Werschkul said that all of the public polling she's seen shows support for I-2109 "not breaking 50 percent." She said that the majority of state residents favor the investments in early learning and a more balanced tax code.

"It's clear that [repeal] would benefit only a handful of the wealthiest Washingtonians, and I think most people see that," Werschkul said.