

Income/Franchise:

Washington DOR Explains Meaning of Domicile and Allocation Rules Under New Capital Gains Tax

Interim statement regarding the definition of domicile for capital gains excise tax allocation purposes, Wash. Dept. of Rev. (4/27/23). In light of the Washington Supreme Court's recent decision upholding the validity of state legislation enacted in 2021 that imposes a Washington tax on long-term capital gains earned by some individuals from the sale or exchange of certain capital assets at the rate of 7% beginning January 1, 2022 [see E.S.S.B. 5096 and previously issued Multistate Tax Alert (May 13, 2021) for more details on this state tax, as well as recently issued Multistate Tax Alert (March 27, 2023) for more details on the Washington Supreme Court's recent decision], the Washington Department of Revenue issued an interim guidance statement that explains the meaning of "domicile" for purposes of this tax – including concepts related to changing domicile and determining domiciliary intent. The guidance also explains that gains or losses from the sale of long-term capital assets are part of an individual's Washington capital gains if they are allocated to Washington, including some "basic examples" of how the relevant allocation rules under RCW 82.87.100 function in this context. Please contact us with any questions.

URL: <https://dor.wa.gov/interim-statement-regarding-definition-domicile-capital-gains-excise-tax-allocation-purposes>

URL: <https://app.leg.wa.gov/billsummary?BillNumber=5096&Year=2021&Initiative=false>

URL: <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/washington-law-imposes-new-excise-tax-on-capital-gains.pdf>

URL: <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-multistate-tax-alert-washington-supreme-court-upholds-capital-gains-tax.pdf>

— Scott Schiefelbein (Portland)
Managing Director
Deloitte Tax LLP
sschiefelbein@deloitte.com

Robert Wood (Seattle)
Senior Manager
Deloitte Tax LLP
robwood@deloitte.com

Myles Brenner (Seattle)
Senior Manager
Deloitte Tax LLP
mybrenner@deloitte.com

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