

Larry's Tax Law

The Turbulent Ride for Washington's New Capital Gains Tax Continues – The New Tax Regime Took Another Hit, But This Setback Came Outside of the Courts

By Larry Brant on 11.4.21 | Posted in Legislation, State and Local Tax, Tax Laws

As previously reported on [May 7](#) and [June 17](#) of this year, Washington state lawmakers enacted a new capital gains tax, set to go into effect on January 1, 2022, but two lawsuits were initiated to declare the tax unconstitutional. To date, the court cases are continuing their way through the judicial process.

On November 2, 2021, as part of the statewide general elections process, Washington voters were not asked to vote on the new state capital gains tax; rather they were asked for their opinion on the tax.

The specific question posed, as written by the Office of the Attorney General, is as follows:

State Measures – Advisory Vote No. 37

The legislature imposed, without a vote of the people, a 7% tax on capital gains in excess of \$250,000, with exceptions, costing \$5,736,000,000 in its first ten years, for government spending.

This tax increase should be:

- Repealed*
- Maintained*

The voters have been heard. The Washington state elections office is reporting that the voters overwhelmingly want the new tax repealed. 652,065 or 62.99% of those that answered the question want the tax repealed. 383,136 or 37.01% of those that answered the question want the tax maintained.

Will Washington lawmakers listen to their constituents and move to repeal the new law before its effective date? Will the courts rule on the constitutionality of the new law? Will voters get the opportunity to do more than just give an opinion on the matter (i.e., vote on its repeal or maintenance)?

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It is an interesting time in the state of Washington relative to local taxation. I will continue to report on the future of the Washington capital gains tax. So far, its life has been shaky.

Tags: capital gains tax, SB 5096, Washington legislature, Washington state, Washington state capital gains tax