SENATE BILL REPORT
SB 5129

As of January 14, 2019

Title: An act relating to increasing revenues for the support of state government.

Brief Description: Increasing revenues for the support of state government.

Sponsors: Senator Rolfes; by request of Office of Financial Management.

Brief History:
Committee Activity: Ways & Means: 1/16/19.

Brief Summary of Bill

- Imposes a 9 percent tax on the sale or exchange of long-term capital assets.
- Increases the business and occupation tax rate on service-related activities from 1.5 percent to 2.5 percent.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Jeffrey Mitchell (786-7438)

Background: Capital Gains. A capital gains tax (CGT) is a tax on the profit realized on the sale of non-inventory assets that are purchased at a lower price than the sales price. Common examples would be capital gains realized from the sale of stocks, bonds, mutual funds, boats, and real estate.

Under the federal tax code, individuals and corporations pay income tax on the net total of all their capital gains just as they do on other sorts of income. For individuals, the amount of federal CGT depends on both the tax bracket of the individual and the amount of time the capital asset was held before being sold. Short-term capital gains are taxed at the individual's ordinary income tax rate, and are defined as capital assets held for a year or less before being sold. Currently, long-term capital gains are generally taxed at a preferential rate in comparison to ordinary income for federal income tax purposes. In 2019, the top marginal rate on ordinary income is 37 percent compared with a top marginal rate of 20 percent for long-term capital gains.

In addition to the federal tax, capital gains are often subject to state income taxes. Most states do not have separate capital gains tax rates. Instead, most states tax capital gains as ordinary income subject to the state's income tax rates.

Business and Occupation Taxes. Washington's major business tax is the business and occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. The tax is imposed on the gross receipts from all business activities conducted within the state. Generally, revenues are deposited in the state general fund. There are several rate categories, and a business may be subject to more than one B&O tax rate, depending on the types of business activities conducted. Major tax rates are:

- 0.471 percent for retailing;
- 0.484 percent for manufacturing, wholesaling, and extracting; and
- 1.5 percent for service and activities not classified elsewhere.

Several lower rates also apply to specific business activities. In 2010, the Legislature imposed a three-year B&O tax surcharge of 0.3 percent on service activities thereby increasing the total tax rate from 1.5 percent to 1.8 percent.

Summary of Bill: Capital Gains Tax. Beginning January 1, 2020, an annual state net CGT is imposed on the sale or other voluntary exchange of long-term capital assets by individuals. The tax rate is 9 percent. Generally, the tax rate is applied to the capital gains amount reported on the individual's federal income tax return. For resident individuals, all capital gains from the sale or exchange of intangible personal property, such as stock, are allocated to Washington. Capital gains from real estate transactions are allocated to Washington if the real property is located in Washington. Generally, capital gains from the sale or exchange of tangible personal property are allocated to Washington if the property was located in Washington at the time of the transaction.

All taxpayers must file with the state Department of Revenue (DOR), a CGT return for each taxable year; however, a person with no tax liability is not required to file a tax return. The due date of the state CGT return is the due date for the federal income tax return, unless otherwise required by DOR. The first state CGT returns are due in 2021.

For taxpayers filing joint federal tax returns, the first $50,000 in long-term capital gains is excluded from the state CGT. For taxpayers filing other returns, a $25,000 exclusion is provided.

Sales or exchanges of some capital assets are explicitly excluded from the state CGT, including:

- residential dwellings along with the land upon which the dwelling is located;
- assets held in a retirement accounts;
- assets transferred as part of a condemnation proceeding;
- livestock related to farming or ranching;
- agricultural land that meets certain requirements;
- certain types of property used in a trade or business such as machinery and equipment that have been immediately expensed; and
- timber and timberlands.

All state CGT revenues are deposited into the state general fund.

Business and Occupation Surtax on Certain Services. Beginning July 1, 2019, an additional B&O tax of 1.0 percent is imposed on service-related activities that are subject to the 1.5 percent rate, bringing the total tax rate on these activities to 2.5 percent.

Eighty percent of the additional B&O tax revenues are deposited into the state Education Legacy Trust Account with the remainder deposited in the state general fund.

Appropriation: None.

Fiscal Note: Requested on January 13, 2019.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains several effective dates. Please refer to the bill.