
HOUSE BILL 2005

State of Washington 66th Legislature 2019 Regular Session

By Representatives Doglio, Gregerson, Ryu, and Santos

Read first time 02/11/19. Referred to Committee on Finance.

1 AN ACT Relating to reinstating the real estate excise tax
2 exemption for qualified sales of manufactured/mobile home
3 communities; reenacting and amending RCW 82.45.010; and creating a
4 new section.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 82.45.010 and 2018 c 223 s 3 and 2018 c 221 s 1 are
7 each reenacted and amended to read as follows:

8 (1) As used in this chapter, the term "sale" has its ordinary
9 meaning and includes any conveyance, grant, assignment, quitclaim, or
10 transfer of the ownership of or title to real property, including
11 standing timber, or any estate or interest therein for a valuable
12 consideration, and any contract for such conveyance, grant,
13 assignment, quitclaim, or transfer, and any lease with an option to
14 purchase real property, including standing timber, or any estate or
15 interest therein or other contract under which possession of the
16 property is given to the purchaser, or any other person at the
17 purchaser's direction, and title to the property is retained by the
18 vendor as security for the payment of the purchase price. The term
19 also includes the grant, assignment, quitclaim, sale, or transfer of
20 improvements constructed upon leased land.

1 (2) (a) The term "sale" also includes the transfer or acquisition
2 within any twelve-month period of a controlling interest in any
3 entity with an interest in real property located in this state for a
4 valuable consideration.

5 (b) For the sole purpose of determining whether, pursuant to the
6 exercise of an option, a controlling interest was transferred or
7 acquired within a twelve-month period, the date that the option
8 agreement was executed is the date on which the transfer or
9 acquisition of the controlling interest is deemed to occur. For all
10 other purposes under this chapter, the date upon which the option is
11 exercised is the date of the transfer or acquisition of the
12 controlling interest.

13 (c) For purposes of this subsection, all acquisitions of persons
14 acting in concert must be aggregated for purposes of determining
15 whether a transfer or acquisition of a controlling interest has taken
16 place. The department must adopt standards by rule to determine when
17 persons are acting in concert. In adopting a rule for this purpose,
18 the department must consider the following:

19 (i) Persons must be treated as acting in concert when they have a
20 relationship with each other such that one person influences or
21 controls the actions of another through common ownership; and

22 (ii) When persons are not commonly owned or controlled, they must
23 be treated as acting in concert only when the unity with which the
24 purchasers have negotiated and will consummate the transfer of
25 ownership interests supports a finding that they are acting as a
26 single entity. If the acquisitions are completely independent, with
27 each purchaser buying without regard to the identity of the other
28 purchasers, then the acquisitions are considered separate
29 acquisitions.

30 (3) The term "sale" does not include:

31 (a) A transfer by gift, devise, or inheritance.

32 (b) A transfer by transfer on death deed, to the extent that it
33 is not in satisfaction of a contractual obligation of the decedent
34 owed to the recipient of the property.

35 (c) A transfer of any leasehold interest other than of the type
36 mentioned above.

37 (d) A cancellation or forfeiture of a vendee's interest in a
38 contract for the sale of real property, whether or not such contract
39 contains a forfeiture clause, or deed in lieu of foreclosure of a
40 mortgage.

1 (e) The partition of property by tenants in common by agreement
2 or as the result of a court decree.

3 (f) The assignment of property or interest in property from one
4 spouse or one domestic partner to the other spouse or other domestic
5 partner in accordance with the terms of a decree of dissolution of
6 marriage or state registered domestic partnership or in fulfillment
7 of a property settlement agreement.

8 (g) The assignment or other transfer of a vendor's interest in a
9 contract for the sale of real property, even though accompanied by a
10 conveyance of the vendor's interest in the real property involved.

11 (h) Transfers by appropriation or decree in condemnation
12 proceedings brought by the United States, the state or any political
13 subdivision thereof, or a municipal corporation.

14 (i) A mortgage or other transfer of an interest in real property
15 merely to secure a debt, or the assignment thereof.

16 (j) Any transfer or conveyance made pursuant to a deed of trust
17 or an order of sale by the court in any mortgage, deed of trust, or
18 lien foreclosure proceeding or upon execution of a judgment, or deed
19 in lieu of foreclosure to satisfy a mortgage or deed of trust.

20 (k) A conveyance to the federal housing administration or
21 veterans administration by an authorized mortgagee made pursuant to a
22 contract of insurance or guaranty with the federal housing
23 administration or veterans administration.

24 (l) A transfer in compliance with the terms of any lease or
25 contract upon which the tax as imposed by this chapter has been paid
26 or where the lease or contract was entered into prior to the date
27 this tax was first imposed.

28 (m) The sale of any grave or lot in an established cemetery.

29 (n) A sale by the United States, this state or any political
30 subdivision thereof, or a municipal corporation of this state.

31 (o) A sale to a regional transit authority or public corporation
32 under RCW 81.112.320 under a sale/leaseback agreement under RCW
33 81.112.300.

34 (p) A transfer of real property, however effected, if it consists
35 of a mere change in identity or form of ownership of an entity where
36 there is no change in the beneficial ownership. These include
37 transfers to a corporation or partnership which is wholly owned by
38 the transferor and/or the transferor's spouse or domestic partner or
39 children of the transferor or the transferor's spouse or domestic
40 partner. However, if thereafter such transferee corporation or

1 partnership voluntarily transfers such real property, or such
2 transferor, spouse or domestic partner, or children of the transferor
3 or the transferor's spouse or domestic partner voluntarily transfer
4 stock in the transferee corporation or interest in the transferee
5 partnership capital, as the case may be, to other than (i) the
6 transferor and/or the transferor's spouse or domestic partner or
7 children of the transferor or the transferor's spouse or domestic
8 partner, (ii) a trust having the transferor and/or the transferor's
9 spouse or domestic partner or children of the transferor or the
10 transferor's spouse or domestic partner as the only beneficiaries at
11 the time of the transfer to the trust, or (iii) a corporation or
12 partnership wholly owned by the original transferor and/or the
13 transferor's spouse or domestic partner or children of the transferor
14 or the transferor's spouse or domestic partner, within three years of
15 the original transfer to which this exemption applies, and the tax on
16 the subsequent transfer has not been paid within sixty days of
17 becoming due, excise taxes become due and payable on the original
18 transfer as otherwise provided by law.

19 (q) (i) A transfer that for federal income tax purposes does not
20 involve the recognition of gain or loss for entity formation,
21 liquidation or dissolution, and reorganization, including but not
22 limited to nonrecognition of gain or loss because of application of
23 26 U.S.C. Sec. 332, 337, 351, 368(a)(1), 721, or 731 of the internal
24 revenue code of 1986, as amended.

25 (ii) However, the transfer described in (q) (i) of this subsection
26 cannot be preceded or followed within a twelve-month period by
27 another transfer or series of transfers, that, when combined with the
28 otherwise exempt transfer or transfers described in (q) (i) of this
29 subsection, results in the transfer of a controlling interest in the
30 entity for valuable consideration, and in which one or more persons
31 previously holding a controlling interest in the entity receive cash
32 or property in exchange for any interest the person or persons acting
33 in concert hold in the entity. This subsection (3) (q) (ii) does not
34 apply to that part of the transfer involving property received that
35 is the real property interest that the person or persons originally
36 contributed to the entity or when one or more persons who did not
37 contribute real property or belong to the entity at a time when real
38 property was purchased receive cash or personal property in exchange
39 for that person or persons' interest in the entity. The real estate
40 excise tax under this subsection (3) (q) (ii) is imposed upon the

1 person or persons who previously held a controlling interest in the
2 entity.

3 (r) A qualified sale of a manufactured/mobile home community, as
4 defined in RCW 59.20.030 (~~(, that takes place on or after June 12,~~
5 ~~2008, but before December 31, 2018)~~).

6 (s)(i) A transfer of a qualified low-income housing development
7 or controlling interest in a qualified low-income housing
8 development, unless, due to noncompliance with federal statutory
9 requirements, the seller is subject to recapture, in whole or in
10 part, of its allocated federal low-income housing tax credits within
11 the four years prior to the date of transfer.

12 (ii) For purposes of this subsection (3)(s), "qualified low-
13 income housing development" means real property and improvements in
14 respect to which the seller or, in the case of a transfer of a
15 controlling interest, the owner or beneficial owner, was allocated
16 federal low-income housing tax credits authorized under 26 U.S.C.
17 Sec. 42 or successor statute, by the Washington state housing finance
18 commission or successor state-authorized tax credit allocating
19 agency.

20 (iii) This subsection (3)(s) does not apply to transfers of a
21 qualified low-income housing development or controlling interest in a
22 qualified low-income housing development occurring on or after July
23 1, 2035.

24 (iv) The Washington state housing finance commission, in
25 consultation with the department, must gather data on: (A) The fiscal
26 savings, if any, accruing to transferees as a result of the exemption
27 provided in this subsection (3)(s); (B) the extent to which
28 transferors of qualified low-income housing developments receive
29 consideration, including any assumption of debt, as part of a
30 transfer subject to the exemption provided in this subsection (3)(s);
31 and (C) the continued use of the property for low-income housing. The
32 Washington state housing finance commission must provide this
33 information to the joint legislative audit and review committee. The
34 committee must conduct a review of the tax preference created under
35 this subsection (3)(s) in calendar year 2033, as required under
36 chapter 43.136 RCW.

37 (t)(i) A qualified transfer of residential property by a legal
38 representative of a person with developmental disabilities to a
39 qualified entity subject to the following conditions:

1 (A) The adult child with developmental disabilities of the
2 transferor of the residential property must be allowed to reside in
3 the residence or successor property so long as the placement is safe
4 and appropriate as determined by the department of social and health
5 services;

6 (B) The title to the residential property is conveyed without the
7 receipt of consideration by the legal representative of a person with
8 developmental disabilities to a qualified entity;

9 (C) The residential property must have no more than four living
10 units located on it; and

11 (D) The residential property transferred must remain in continued
12 use for fifty years by the qualified entity as supported living for
13 persons with developmental disabilities by the qualified entity or
14 successor entity. If the qualified entity sells or otherwise conveys
15 ownership of the residential property the proceeds of the sale or
16 conveyance must be used to acquire similar residential property and
17 such similar residential property must be considered the successor
18 for continued use. The property will not be considered in continued
19 use if the department of social and health services finds that the
20 property has failed, after a reasonable time to remedy, to meet any
21 health and safety statutory or regulatory requirements. If the
22 department of social and health services determines that the property
23 fails to meet the requirements for continued use, the department of
24 social and health services must notify the department and the real
25 estate excise tax based on the value of the property at the time of
26 the transfer into use as residential property for persons with
27 developmental disabilities becomes immediately due and payable by the
28 qualified entity. The tax due is not subject to penalties, fees, or
29 interest under this title.

30 (ii) For the purposes of this subsection (3)(t) the definitions
31 in RCW 71A.10.020 apply.

32 (iii) A "qualified entity" is:

33 (A) A nonprofit organization under Title 26 U.S.C. Sec. 501(c)(3)
34 of the federal internal revenue code of 1986, as amended, as of June
35 7, 2018, or a subsidiary under the same taxpayer identification
36 number that provides residential supported living for persons with
37 developmental disabilities; or

38 (B) A nonprofit adult family home, as defined in RCW 70.128.010,
39 that exclusively serves persons with developmental disabilities.

1 (iv) In order to receive an exemption under this subsection
2 (3)(t) an affidavit must be submitted by the transferor of the
3 residential property and must include a copy of the transfer
4 agreement and any other documentation as required by the department.

5 NEW SECTION. **Sec. 2.** The provisions of RCW 82.32.805 and
6 82.32.808 do not apply to this act.

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