

WSR 22-18-097
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF REVENUE

[Filed September 7, 2022, 9:22 a.m.]

Subject of Possible Rule Making: Chapter 82.87 RCW, Excise tax on capital gains.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 82.87.110, 82.87.130.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Effective January 1, 2022, chapter 82.87 RCW imposes an excise tax on sales or exchanges of long-term capital assets. This proposed rule seeks to clarify administrative aspects of the excise tax on capital gains, such as proper filing procedures and penalties related to this excise tax.

In March of 2022, the Douglas County Superior Court ruled in *Quinn v. State of Washington* that the excise tax on capital gains does not meet state constitutional requirements and, therefore, is unconstitutional and invalid. The state has appealed the ruling to the Washington supreme court. While the appeal is pending, the department will continue to provide guidance, such as this rule, to the public regarding the tax as a courtesy. This rule will apply only if the tax is ruled constitutional and valid by a court of final jurisdiction.

Process for Developing New Rule: Parties interested in this rule making may contact the individual listed below. The public may also participate by providing written comments throughout this rule making or giving oral testimony at the public meeting or public hearing.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Michael Hwang, 6400 Linderson Way S.W., P.O. Box 47453, Tumwater, WA 98504, phone 360-534-1575, email MichaelHw@dor.wa.gov, website dor.wa.gov.

Additional comments: Written comments may be submitted by mail or email and should be directed to Michael Hwang using one of the contact methods above by October 12, 2022. Written and oral comments will be accepted at the public meeting on Wednesday, September 28, 2022, at 10:00 a.m. Public meeting location: Virtual meeting. Contact Sierra Crumbaker at SierraC@dor.wa.gov for dial-in/login information.

September 7, 2022
Atif Aziz
Rules Coordinator