

# Capital gains income tax resources

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Proponents of a capital gains tax need to be honest and call it what it is, an income tax. Every state revenue department in the country calls a capital gains tax an income tax. The IRS recently answered this question directly saying, "It is an

income tax." If you want an income tax in Washington stop playing games to try to evade the state's prohibition on graduated income taxes and propose a constitutional amendment.

Imposing an income tax, however, will throw away what Washington's Department of Commerce calls a "competitive advantage" and "great marketing" for the state. A capital gains tax in particular will inject extreme volatility into the state's revenues and budget.

Despite these facts it appears we're going to play the capital gains tax "isn't an income tax" game again. Here are several resources to address this:

- IRS letter to Rep. Newhouse on capital gains taxes  
"This is in response to your inquiry regarding the tax treatment of capital gains. You ask whether tax on capital gains is considered an excise tax or an income tax? It is an income tax. More specifically, capital gains are treated as income under the tax code and taxed as such."
- State Revenue Departments Describe Capital Gains Income Taxes  
"All state revenue departments describe capital gains as income. Those that tax capital gains do so via their income tax codes. No state taxes capital gains as an excise tax."

It is also important to note that none of the states without an income tax taxes capital gains. NH and TN have dividends taxes (though TN is phasing that out) but neither of them tax capital gains.

Despite these facts, some say Washington is special and national tax facts don't apply here since our courts may find differently. If they truly believe they aren't proposing an income tax to set up a lawsuit like Seattle did, I suggest this clarifying amendment for their capital gains tax bill:

"New Section: The legislature recognizes well-established state supreme court precedent declaring income to be property. In adopting this excise tax on capital gains, the legislature does not believe this tax to be on income. If the capital gains tax is challenged in court, the state Attorney General is prohibited from asking the court to reconsider its prior rulings declaring income to be property and must defend the tax solely on the basis it is an excise tax and not an income tax."

On the one hand, you have the IRS and every state revenue department in the country saying a capital gains tax is an income tax. On the other hand, you have those who are trying to evade WA's prohibition on graduated income taxes. Who are you going to believe?

**Additional Information**

IRS letter to Rep. Newhouse on capital gains taxes

WA Department of Commerce: No state income tax "is great marketing" for Washington

State Revenue Departments Describe Capital Gains Income Taxes

Are capital gains taxes "secure and stable" or highly volatile?

New poll shows strong opposition to income tax in any form

Timeless advice from WA Supreme Court on income taxes