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July 23, 2024

The Honorable Steve Hobbs
ATTN: Stuart Holmes
PO Box 40229
Olympia, WA 98504-0229

Re: Ballot Title and Explanatory Statement for Initiative No. 2109

Dear Secretary Hobbs:

In accordance with RCW 29A.32.040 and RCW 29A.32.070, we supply herewith the Ballot Title and Explanatory Statement for Initiative Measure No. 2109. The ballot title and summary for Initiative Measure No. 2109 were previously established, and are repeated here solely for convenience of reference.

Ballot Title

Statement of Subject: Initiative Measure No. 2109 concerns taxes.

Concise Description: This measure would repeal an excise tax imposed on the sale or exchange of certain long-term capital assets by individuals who have annual capital gains of over \$250,000.

Should this measure be enacted into law? Yes [] No []

BALLOT MEASURE SUMMARY

This measure would repeal an excise tax imposed on the sale or exchange of certain long-term capital assets by individuals who have annual capital gains of over \$250,000.

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EXPLANATORY STATEMENT

The Law as It Presently Exists

The State of Washington imposes various taxes to raise revenue to fund state government. Those taxes include the retail sales tax, the business and occupation tax, the state property tax, and various other state taxes. In 2021, the Legislature passed a law creating a tax on the sale or exchange of certain long-term capital assets, commonly referred to as a “capital gains tax.”

The capital gains tax applies to only some types of capital assets held for longer than a year, such as stocks, bonds, precious metals, or artwork. The tax does not apply to the sale of certain assets, including:

- real estate;
- retirement savings accounts or deferred compensation accounts;
- cattle, horses, or breeding livestock if more than 50 percent of the taxpayer’s income is from farming or ranching;
- property that is depreciable or that is treated as an expense under identified federal tax laws;
- timber or timberland, including sales of timber or timberland that result in dividends or distributions from real estate investment trusts;
- certain commercial fishing privileges; and
- goodwill received from the qualifying sale of an auto dealership.

The capital gains tax allows an annual, standard deduction of \$250,000 for each taxpayer, which means that the tax applies only to taxpayers who make capital gains over \$250,000 in any tax year. For spouses and domestic partners, the combined standard deduction is limited to \$250,000, regardless of whether they file joint or separate returns.

The tax rate is seven percent for covered gains. So, for example, if a person bought \$150,000 worth of stock and sold it ten years later for \$500,000, they would have a net gain of \$350,000. The first \$250,000 of that gain would be exempt from tax, and the taxpayer would owe seven percent tax on the remaining \$100,000 of gain, for a total capital gains tax due of \$7,000.

The capital gains tax also allows several other deductions, including:

- gains from the sale or transfer of a qualifying family-owned business that had gross revenue of less than \$10 million within the past year; and
- charitable donations above \$250,000, up to a maximum \$100,000 deduction.

The law also sets forth how the tax is administered. It includes provisions for allocating gains to Washington versus other states, credits for certain taxes paid to other states, procedures for filing

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tax returns, and penalties for attempts to evade payment of the tax. Certain figures, like the standard \$250,000 deduction, the qualifying gross revenue for the small-business deduction, and charitable donation amounts, are adjusted annually based on inflation.

The first \$500 million collected from the capital gains tax each year is deposited into the education legacy trust account, which supports K-12 education, expands access to higher education, and provides funding for early learning and childcare programs. Any amounts collected above \$500 million are applied to the common school construction account, which funds the construction of facilities for common schools.

The Effect of the Proposed Measure if Approved

If approved, this measure would repeal the capital gains tax law, and Washington State would no longer impose taxes on the sale or exchange of long-term capital assets. This would also eliminate the funding collected from the tax that currently goes to K-12 education, higher education, early learning, childcare, and school construction.

Sincerely,

s/Peter B. Gonick

PETER B. GONICK

Deputy Solicitor General

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