



Tax Insights  
from Personal Financial  
Services

# Washington enacts a new tax on millionaires and estate tax changes

April 13, 2026

## In brief

### What happened?

On March 30, Governor Bob Ferguson (D) signed into law Washington Engrossed Substitute Senate Bill 6346 (Bill 6346), establishing a 9.90 percent income tax on individuals with adjusted gross income exceeding \$1 million. This marks the first time Washington has imposed a tax of this kind on individual income. The tax takes effect January 1, 2028, with the first returns due in April 2029.

Additionally, Engrossed Senate Bill 6347 (Bill 6347), enacted on March 25, amends Washington state's estate tax laws and introduces significant changes to the applicable exclusion amount and establishes a temporary increase in estate tax rates for a one-year period.

NOTE: The Washington Supreme Court has granted an emergency motion for accelerated review of Heywood v. Hobbs, a case seeking to require Secretary of State Steve Hobbs to process a referendum challenge to the new tax law.

### Why is it important?

Bill 6346 fundamentally changes Washington's tax landscape. Individual residents of Washington with adjusted gross income that exceeds \$1 million will owe a new 9.90 percent tax on income above the standard deduction threshold. The tax also would apply to nonresident individuals earning certain income from Washington sources that exceeds \$1 million. The tax uses a unique computation that starts with

federal adjusted gross income but requires several Washington-specific modifications, including different treatment of long-term capital gains and disallowance of pre-2028 loss carryovers. An elective pass-through entity tax is also enacted.

Bill 6347 provides long-term estate tax relief in Washington by maintaining the higher \$3,000,000 exclusion amount and restoring the original rate schedule, limiting the 2025 Legislature's substantial rate increases to a single year.

## **Actions to consider**

Individuals whose annual adjusted gross income is at or near \$1 million should begin evaluating how the new tax will affect you before the January 1, 2028 effective date. Considerations for individuals include: determining if they have Washington residency or are subject to the tax as a nonresident, understanding the modifications Washington requires to federal adjusted gross income, available deductions, evaluating the pass-through entity election for business owners, and assessing credits available for taxes paid to other states.

Given the changes to the estate tax and the applicable exclusion amount, Washington residents should review their estate plans and may want to consider strategies, such as lifetime gifting, to reduce their taxable estate before the temporary but substantial tax rate increase takes effect on July 1, 2025.

## **In detail**

### **The Millionaire's Tax**

For tax years beginning on or after January 1, 2028, residents and nonresidents earning income from Washington sources that exceeds the \$1 million standard deduction will owe a new 9.90 percent tax. The \$1 million standard deduction is shared between spouses or domestic partners rather than applied per person, which could affect high-earning couples. Additionally, the standard deduction will be adjusted every other year for inflation.

The first tax returns will be due in April 2029, and the first estimated tax payments will be due beginning July 1, 2029. Importantly, because 2028 is the first year of the tax, estimated payments are not required; the full amount for that year will be due when the return is filed in April 2029.

### **Who is affected**

The tax applies only to individuals with annual adjusted gross income of more than \$1 million. Both Washington residents and nonresidents who earn certain income from sources within the state are subject to tax. Residents must allocate all of their income to Washington. Nonresidents are taxed only on income derived from sources within Washington, including wages from employment in the state, income from business activities conducted in the state, rents and short-term gains from real or tangible personal property in the state, and income from intangible personal property employed in a Washington business.

Nonresidents who participate only as keynote speakers, panelists, presenters, or moderators at conventions, trade shows, or business events in Washington are excluded from the tax if they meet certain requirements. Nonresident individuals that perform services in Washington five or fewer days cumulatively in any calendar year, are not required to allocate income to the state; however, this rule

does not apply to nonresident professional athletes and nonresident student athletes, who are subject to special rules, as well as entertainers.

## The tax rate and how it works

The tax rate is a flat 9.90 percent applied to an individual's "Washington taxable income." Washington taxable income is calculated by starting with the taxpayer's federal adjusted gross income and making several modifications, then subtracting the applicable standard deduction and any allowable deductions.

To arrive at "Washington base income," taxpayers must make the following adjustments to their federal adjusted gross income:

- Federal long-term capital gains must be subtracted and federal long-term capital losses must be added back, with Washington capital gains (as defined under the existing capital gains tax) added separately.
- Income from state and local bonds excluded under Internal Revenue Code (IRC) Section 103 must be added back, except for interest on obligations of Washington State or its political subdivisions.
- State and local income taxes, and any taxes for which a B&O or public utility tax credit is allowed, that were deducted federally must be added back.
- Loss carryovers from taxable years ending before January 1, 2028, must be added back.
- Income derived from U.S. obligations that Washington is prohibited from taxing must be subtracted.
- Income from incomplete nongrantor trusts for Washington residents funded with an incomplete gift must be added.

An important provision for retirees: the bill explicitly provides that public pensions and retirement benefits are not exempt from this tax. The legislation amends numerous existing statutes governing public pension systems, including those covering judges, teachers, law enforcement, firefighters, and other public employees, to clarify that the general exemption of pension benefits from state and local taxes does not apply to the new income tax. Furthermore, existing provisions exempting pension payments from garnishment and seizure do not apply to collection actions related to the new tax.

## Exemptions

The legislature has specifically exempted certain types of income from tax. Income derived from the sale of qualified family-owned small businesses, in accordance with the existing capital gains tax exemption under RCW 82.87.070, and the sale of residential and other real property, in accordance with RCW 82.87.050, are intended to be exempt. The legislature also exempted certain income of members of federally recognized tribes, including income connected to treaty rights, tribal lands or Indian country, tribal entities or programs, and any tribal income otherwise exempt under federal or state law.

## The \$1,000,000 standard deduction

Individual taxpayer receives a standard deduction of \$1,000,000. For spouses or state-registered domestic partners, the combined standard deduction also is \$1,000,000, regardless of whether they file joint or separate returns. Nonresidents must prorate the standard deduction by multiplying it by a fraction

equal to their Washington base income divided by their total federal adjusted gross income. The standard deduction will be adjusted for inflation every other year.

## Additional deductions

In addition to the standard deduction, taxpayers may claim the following deductions against their Washington base income:

- Taxpayers may include net operating loss carryforwards from post-January 1, 2028 tax years, derived from or connected with sources in Washington, at 80 percent of the amount, provided they are included in federal AGI.
- Charitable contributions to qualified organizations claimed on federal returns under IRC Section 170 may be deducted, up to a maximum of \$100,000 per individual, or \$100,000 combined for spouses or domestic partners regardless of filing status. 'Qualified organization' is defined under RCW 82.87.080 and limited to a nonprofit organization or any other organization that is eligible to receive charitable contributions under IRC Sec. 170(c) and principally directed and managed within the state of Washington.
- Wagering losses sourced to Washington may be deducted at up to 90 percent of the loss amount, but the deduction cannot exceed the taxpayer's Washington-allocated wagering income. Wagering losses may not be carried forward or backward.
- Amounts deposited in a capital construction fund for vessel improvements or acquisition under IRC Section 7518 may be deducted if the amount reduced the taxpayer's federal taxable income.
- Expenditures disallowed under IRC Section 280E may be deducted to the extent they relate to commercial cannabis activities by a person licensed under Washington law.

## General rule for apportioning and allocating nonresident income from business activity conducted in the state

Nonresidents who derive income from a business, trade, or profession carried on in Washington, including sole proprietorships and distributive shares from pass-through entities, must apportion and allocate that income to Washington under specific rules. Business income is classified as either "apportionable income" or "nonapportionable income." Apportionable income is apportioned to Washington using a receipts factor, which is a fraction with the taxpayer's Washington receipts as the numerator and total receipts everywhere as the denominator. For receipts other than sales of tangible personal property, Washington applies a market-based sourcing approach, sourcing receipts to Washington if the taxpayer's market for the sale is in the state.

Nonapportionable income, such as rents, royalties, short-term capital gains, interest, dividends, and patent or copyright royalties, is allocated to Washington under separate rules based generally on the location or use of the underlying property or the taxpayer's commercial domicile. If the standard apportionment rules do not fairly represent the extent of a taxpayer's business activity in Washington, the taxpayer may petition the Department of Revenue, or the department may require, the use of an alternative method.

## Available tax credits

The law provides several credits designed to prevent double taxation and integrate with Washington's existing tax structure.

A credit is available for income taxes paid to another state or jurisdiction on the same income that is taxed under this chapter, subject to limitations. A nonrefundable credit is also provided for B&O tax and public utility tax paid on income that is also subject to the new income tax. Taxpayers may claim a nonrefundable credit for their existing Washington capital gains taxes paid on the same income. Additionally, owners of pass-through entities that elect to pay the tax at the entity level may claim a nonrefundable credit for their pro rata share of the entity-level tax paid. None of these credits may be carried forward or backward to another tax year, and no refunds are available for unused credits.

## Pass-Through Entity Election

Partnerships, limited liability companies, and S corporations, may elect to pay the tax at the entity level at the same 9.90 percent rate, rather than having each owner include their distributive share of the entity's income in their individual return. This election is made annually, is irrevocable for the taxable year, and must be filed no later than June 15th of the tax year. Individual owners may choose not to participate in the election. Guaranteed payments, separately stated items, and investment income is included in taxable income to the same extent these items would be included in a participating owner's individual Washington base income. Participating owners then receive a credit against their individual tax liability for their share of the entity-level tax.

## Filing requirements and penalties

Individuals with Washington taxable income above the applicable standard deduction must file a return with the Department of Revenue. The method of accounting must be the same as the taxpayer's federal method. If a taxpayer has obtained an extension to file their federal return, the same extension applies to the Washington return, though it does not extend the deadline for paying the tax due. Estimated payments are not required if the total annual estimated tax is less than \$5,000.

The law includes serious penalties for noncompliance. Knowingly attempting to evade the tax is a Class C felony. Knowingly failing to pay, file returns, or supply required information is a gross misdemeanor. Additional penalties are provided for late filing, late payment, substantial underpayments, failure to amend a return, among others.

## Changes to the estate tax and applicable exclusion amount

Bill 6347 preserves the higher \$3,000,000 exclusion amount enacted by the 2025 Legislature while restoring the pre-2025 tax rate schedule for estates of decedents dying on or after July 1, 2026.

With respect to the applicable exclusion amount, Bill 6347 establishes a new, phased schedule for the estate tax applicable exclusion amount, which is the value of an estate that is exempt from tax.

- Prior to July 1, 2025: The exclusion amount remains at \$2,193,000.
- July 1, 2025, to December 31, 2025: The exclusion amount increases to \$3,000,000.

- January 1, 2026, to June 30, 2026: The exclusion amount is set at \$3,076,000.
- On or after July 1, 2026: The exclusion amount reverts to \$3,000,000.

Furthermore, Bill 6347 delays the implementation of annual inflation adjustments for the exclusion amount. The annual adjustment, which will be applied to the \$3,000,000 base, is now scheduled to begin in calendar year 2027.

For the rate adjustment, the practical effect is that the 2025 Legislature's dramatic rate increases, which pushed the top marginal rate from 20% to 35% for taxable estates exceeding \$9 million, apply only during the one-year period from July 1, 2025, through June 30, 2026. Rate increases during this window are significant across all brackets, with mid-range estates in the \$4 million to \$6 million bracket facing a jump from 18% to 23%, and estates in the \$7 million to \$9 million bracket seeing rates rise from 19.5% to 30%. For decedents dying on or after July 1, 2026, Bill 6347 restores each of these brackets to their pre-2025 levels, providing that the elevated rates remain confined to this single transitional year.

## Let's talk

If you have questions related to the new tax in Washington, please contact:

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