SUMMARY and FISCAL NOTE*

Department:	Dept. Contact:	CBO Contact:
Legislative	Tom Mikesell/ 4-8735	N/A

** Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.*

1. BILL SUMMARY

Legislation Title: AN ORDINANCE imposing an excise tax on the sale or exchange of certain capital assets in Seattle; adding a new Chapter 5.66 to the Seattle Municipal Code; and adding a new Section 5.45.050 to the Seattle Municipal Code.

Summary and Background of the Legislation: This council bill would impose a two percent excise tax on the annual gains to individuals from the sale of non-exempt capital assets (more commonly referred to as a capital gains tax). The first $250,000 of capital gains are excluded, and any gains from the following types of asset sales would be exempt:

- Real estate sales and/or exchanges;
- Retirement accounts;
- Condemnations;
- Livestock in the conduct of a farming and ranching business;
- Timber;
- Commercial fishing privileges; and,
- Goodwill from the sale of auto dealerships.

In addition to the $250,000 standard deduction for each single or joint tax return, additional deductions would apply, including:

- Any amounts prohibited from taxation under the state or federal constitution;
- Gains from the sale of a qualified family-owned small business; and,
- Up to $100,000 of charitable donations above a $250,000 minimum qualifying charitable deduction.

The deductions, and other specified thresholds, are 2023 dollar amounts that will be adjusted in 2024, and annually thereafter, for inflation, consistent with provisions in RCW 82.87.150, which adjusts the same thresholds for the state's capital gains excise tax.

This tax is structured identically to the state's capital gains excise tax, which was affirmed to be a legal exercise of public taxing authority by the Washington State Supreme Court in Quinn v. State of Washington. This parallel structure would support ease of administration and taxpayer compliance.

The capital gains excise tax would be imposed beginning January 1, 2024, and, based on estimates developed by the City's Office of Economic and Revenue Forecasts (Forecast Office) using available state government data and forecasts, a two percent tax would generate approximately $38 million in the first year. Additional details and caveats about this estimate are provided in Section 3.b.

2. CAPITAL IMPROVEMENT PROGRAM

Does this legislation create, fund, or amend a CIP Project? ___ Yes _X_ No

3. SUMMARY OF FINANCIAL IMPLICATIONS

Does this legislation amend the Adopted Budget? ___ Yes _X_ No

Does the legislation have other financial impacts to The City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?
Implementing this council bill would require one-time rulemaking and systems development work, and ongoing administration and auditing work in the Department of Finance and Administrative Services (FAS). Based on a review of the last three taxes implemented by FAS, additional upfront costs could range from $800,000 to $1.6 million, though these are merely rough estimates that will be better informed through any budget requests the Executive determines to be necessary to implement the tax.

Are there financial costs or other impacts of *not* implementing the legislation?
No.

If there are no changes to appropriations, revenues, or positions, please delete sections 3.a., 3.b., and 3.c. and answer the questions in Section 4.

3.a. Appropriations

___ **This legislation adds, changes, or deletes appropriations.**

3.b. Revenues/Reimbursements

_X_ **This legislation adds, changes, or deletes revenues or reimbursements.**

Anticipated Revenue/Reimbursement Resulting from This Legislation:

Fund Name and Number	Dept	Revenue Source	2023 Revenue	2024 Estimated Revenue
General Fund 001000		Capital Gains Excise Tax	$0	$0
		TOTAL	**$0**	**$0**

Revenue/Reimbursement Notes:
The capital gains excise tax would be imposed January 1, 2024, and, based on estimates provided by the City's Office of Economic and Revenue Forecasts (Forecast Office) using state Department of Revenue (DOR) collections and forecast data, a two percent tax would generate approximately $38 million in its first year, with moderate growth thereafter. This estimate was derived by applying the percentage of state capital gains collections from Seattle addresses (15.84 percent of the total) to the DOR revenue forecast for the state's tax and does not include any explicit assumptions of future taxpayer avoidance of the tax, which is impossible to reliably estimate.

Additional Considerations:
The Forecast Office's analysis of the DOR's state collections data shows that 85 percent of the 2023 collections from Seattle taxpayers was from 163 taxpayers, which indicates an extremely concentrated tax base. Such a concentration likely also implies a high degree of year-to-year variance in tax payments, because a change in financial circumstances of relatively few individuals could have a significant impact on overall revenue collections.

The Forecast Office also notes that the approach used assumes that each of the taxpayers included as 'Seattle- based' in the DOR data would pay Seattle's tax. However, for taxpayers with multiple domiciles in Washington state, the Forecast Office indicates there may be cases where the taxpayer would not have Seattle tax liability due to not meeting the standard for having a domicile in Seattle, or purposefully shifting their domicile in response to imposition of the tax. In other words, a taxpayer who reported a Seattle address for the purposes of calculating their recent state tax liability, might choose an official domicile outside the City going forward. The proposed legislation establishes specific thresholds regarding how much time one must reside at a specific location to establish it as a domicile, but how effectively these issues can be enforced for individuals with multiple Washington residences is unclear. Though it is impossible to accurately quantify the potential impact this could have, it is important to note in understanding the revenue estimate.

In addition, the Forecast Office reviewed 15 years of historical federal Internal Revenue Service (IRS) net capital gains data for insights into the stability of the tax. Though the IRS gains data includes real estate gains, which are explicitly exempt from the proposed tax, and is based on all capital gains, not just those above the $250,000 standard deduction in the proposed bill, the historical review showed high levels of tax base sensitivity to economic expansions and contractions, likely due to reliance on stock and bond sales in capital gains.

Given the concentration of the tax base to a very small number of taxpayers, the possibility of avoidance through tax planning and multiple in-state residences, and the tax base's sensitivity to cyclical economic trends, the annual revenue from the tax could fluctuate widely above and below the estimates provided. By way of additional insight to inform decisions about the use of potential proceeds from this tax, the Forecast Office has noted that there is an unusually high degree of uncertainty in this estimate.

3.c. Positions

___ **This legislation adds, changes, or deletes positions.**

4. OTHER IMPLICATIONS

a. **Does this legislation affect any departments besides the originating department?**
Yes, FAS will be responsible for the implementation and administration of the capital gains tax if this legislation is approved. This will require both one-time setup and ongoing administrative efforts. (See details on potential fiscal impacts in response to question 3 above).

b. Is a public hearing required for this legislation?
No.

c. Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?
No.

d. Does this legislation affect a piece of property?
No.

e. Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities? What is the Language Access plan for any communications to the public?
An excise tax on large financial gains from sales of assets, which, as noted above, would be paid from a very small number of residents, is at its core a progressive tax that does not impact disadvantaged communities.

f. Climate Change Implications

1. **Emissions: Is this legislation likely to increase or decrease carbon emissions in a material way?**
   No.

2. **Resiliency: Will the action(s) proposed by this legislation increase or decrease Seattle's resiliency (or ability to adapt) to climate change in a material way? If so, explain. If it is likely to decrease resiliency in a material way, describe what will or could be done to mitigate the effects.**
   No.

g. If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program's desired goal(s)?
This legislation does not implement a new program.

Summary Attachments (if any):