Amendment 1 Version 1 to CB 120601 – Increase Capital Gains Excise Tax Rate

Sponsor: Councilmember Herbold

Increase the Capital Gains Excise Tax rate to increase General fund revenues for deficit reduction

Effect: This amendment increases the proposed capital gains excise tax rate by 1%, to generate additional General Fund (GF) revenue to offset a portion of the projected GF deficit beginning in 2025. As introduced, Council Bill (CB) 120601 would impose a 2% capital gains excise tax; this amendment increases that to 3%.

Estimates generated by the Office of Economic and Revenue Forecasts (Forecast Office) for CB 120601 indicate a 1 percent tax could generate $19 million annually. The Forecast Office has noted that there is an unusually high degree of uncertainty in this estimate. Due to several factors, including 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.

Amend Section 1 of CB 120601 as follows:

Section 1. A new Chapter 5.66 is added to the Seattle Municipal Code as follows:

Chapter 5.66 CAPITAL GAINS EXCISE TAX

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5.66.030 Tax imposed—Rate

A. Beginning January 1, 2024, a capital gains excise tax is imposed on the sale or exchange of long-term capital assets. Only individuals are subject to payment of the tax.

B. The amount of the capital gains excise tax due shall be an individual's Seattle capital gains, multiplied by ((two)) three percent.

C. If an individual's Seattle capital gains are less than zero for a taxable year, no tax is due under this Section 5.66.030 and no such amount is allowed as a carryover for use in the calculation of that individual's adjusted capital gain, as defined in Section 5.66.020, for any

taxable year. To the extent that a loss carryforward is included in the calculation of an individual's federal net long-term capital gain and that loss carryforward is directly attributable to losses from sales or exchanges allocated to Seattle under Section 5.66.090, the loss carryforward is included in the calculation of that individual's adjusted capital gain for the purposes of this Chapter 5.66. An individual may not include any losses carried back for federal income tax purposes in the calculation of that individual's adjusted capital gain for any taxable year.

D. The tax imposed in this Section 5.66.030 applies to the sale or exchange of long-term capital assets owned by the taxpayer, whether the taxpayer was the legal or beneficial owner of such assets at the time of the sale or exchange. The tax applies when the Seattle capital gains are recognized by the taxpayer in accordance with this Chapter 5.66.

E. For the purposes of this Chapter 5.66:

1. An individual is considered to be a beneficial owner of long-term capital assets held by an entity that is a pass-through or disregarded entity for federal tax purposes, such as a partnership, limited liability company, S corporation, or grantor trust, to the extent of the individual's ownership interest in the entity as reported for federal income tax purposes.

2. A nongrantor trust is deemed to be a grantor trust if the trust does not qualify as a grantor trust for federal tax purposes, and the grantor's transfer of assets to the trust is treated as an incomplete gift under 26 U.S.C. Section 2511 and its accompanying regulations. A grantor of such trust is considered the beneficial owner of the capital assets of the trust for purposes of the tax imposed in this Section 5.66.030 and must include any long-term capital gain or loss from

the sale or exchange of a capital asset by the trust in the calculation of that individual's adjusted

capital gain, if such gain or loss is allocated to Seattle under Section 5.66.090.

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