

May 7, 2019

New Washington Real Estate Excise Tax Increases

On April 27, 2019, Senate Bill 5998 passed the Washington state legislature and is currently awaiting the governor's signature. While the bill will not take effect until January 1, 2020, real estate owners will be significantly impacted and should educate themselves about its effects on the sale of real property in the State of Washington.

Real estate excise tax (REET) is a tax on the sale of real estate and is typically paid by the seller of real property in the State of Washington. Currently, the State excise tax rate is a flat 1.28% of the selling price, with local authorities having a right to impose additional REET. For example, in Seattle, the local REET rate is .50% to bring the combined REET rate to 1.78% of the selling price.

Beginning on January 1, 2020, the flat REET rate structure will be revised to a tiered structure based on the selling price, as follows:

- Selling price less than \$500,000: 1.1% (i.e., REET rate reduction at this selling price)
- Selling price greater than \$500,000 and less than or equal to \$1.5 million: 1.28% (i.e., REET rate remains constant at this selling price)
- Selling price greater than \$1.5 million and less than or equal to \$3 million: 2.75% (i.e., REET rate increased at this selling price)
- Selling price greater than \$3 million: 3% (i.e., REET rate increased at this selling price)

The selling price thresholds above will be adjusted after three years, and then every fourth year thereafter, by the lesser of: (i) the growth of the consumer price index for shelter published by the US Department of Labor or (ii) five percent (5%). No downward adjustments will be made.

Senate Bill 5998 also broadens the timeframe from twelve (12) months to thirty-six (36) months to determine whether a transfer or acquisition of a controlling interest in any entity with an interest in real property constitutes a "sale" for the purposes of requiring payment of REET. Additionally, in recognition that "some taxpayers will attempt to avoid or reduce the tax imposed by this chapter by structuring transactions in a way that serves no meaningful purpose other than to reduce tax due," the Bill also authorizes the Department of Revenue to disregard the form of the transaction in order to impose the tax, which may broaden the scope of Department of Revenue audits for large transfers in which REET is not paid.

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It is anticipated that the Department of Revenue will issue regulations regarding this issue, which is a departure from existing “bright line” rule for transfer of a controlling interest in an entity owning real property.

For more information about the legislative changes, contact any member of our [Real Estate](#) group.

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