

# Special Notice

*Intended audience: anyone selling or conveying real property in the state*

**Dec. 16, 2019**

## New graduated real estate excise tax (REET)

Effective Jan. 1, 2020, sales of real property located in Washington are subject to a graduated real estate excise tax (REET) rate. The graduated state REET rates replace the previous flat state REET rate.

The following state REET rates apply:

<b>Sale price thresholds</b>	<b>Tax rate</b>
\$500,000 or less	1.10%
\$500,000.01 - \$1,500,000	1.28%
\$1,500,000.01 - \$3,000,000	2.75%
\$3,000,000.01 or more	3%

### Exceptions

- Agricultural land and timberland are excluded from the new rate structure and will continue to have a flat state REET rate of 1.28%.
- Local REET rates will not change and will continue to apply as before.

### How the new REET rates apply

The REET rates apply according to the portion of the selling price attributable to each tiered rate. REET is calculated based on the total selling price of real property conveyed from a seller to a buyer, which may include more than one parcel of land.

For example, a sale of real property (which may include one or more land parcels) for \$600,000 is subject to REET as follows:

\$500,000 x 1.1%	=	\$5,500
\$100,000 x 1.28%	=	<u>\$1,280</u>
<b>Total taxes:</b>		<b>\$6,780</b>

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## How to classify real property

To classify real property you must determine its predominant use. Sales of real property that are predominantly used as agricultural land or timberland are classified as such, and are subject to a flat state REET rate of 1.28%. Non-classified property (real property that is not classified as agriculture or timberland) is subject to the state graduated REET rates.

## How to determine predominant use

### Single land parcel

Sales of real property that include a single land parcel are subject to REET according to the predominant use of the parcel. Real property is predominantly used as agricultural land or timberland if the following occur:

- The parcel is classified as agricultural land or timberland by the Assessor of the county in which the parcel is located.
- The County Assessor approves the parcel for continued use as agricultural land or timberland at the time the real property is sold.

The sale of a single land parcel classified as agricultural land or timberland is subject to state REET at a flat rate of 1.28%.

### Multiple land parcels

Sales of real property that include both classified and non-classified land are subject to REET according to the predominant use of all land parcels included in the sale. Property is predominantly used as classified land if, on average, the classified portion of the property accounts for at least 50% of its area and value.

Predominant use is determined by the square footage of the real property and the county-assessed value of the real property. Follow these steps to determine the predominant use:

1. Divide the square footage of classified land by the square footage of all land included in the sale.
2. Divide the county-assessed current value of classified land by the county-assessed current use value of all land include in the sale.
3. Add the result in step 1 to the result in step 2, then divide by two.
  - If the result is equal to or greater than 0.5, all of the land is predominantly agricultural land or timberland and is subject to REET at the flat 1.28% rate.
  - If the result is less than 0.5, all of the land included in the sale is predominantly non-classified land and is subject to the graduated REET rates.

## Examples of determining predominant use

### Example 1

Facts:

- Seller agrees to sell 2 parcels of real property to buyer (parcel A and parcel B) for \$1,000,000.
- Parcel A is classified as farm and agricultural land for property tax purposes. Parcel B is classified as residential property.
- Parcel A is 1,800,000 square feet. Parcel B is 200,000 square feet.
- Parcel A's county assessed value (current use value) is \$150,000. Parcel B's county assessed value (market value) is \$600,000.

#### Steps for determining predominant use:

1. Square footage of classified land to total land: 90% (1,800,000 sq. ft. / 2,000,000 sq. ft.)
2. County assessed value of classified land to total land: 20% (\$150,000 / \$750,000)
3. Predominant use determination: 55% ((90% + 20%) / 2)

**Result:** The transaction is subject to the flat 1.28% REET rate because the predominant use calculation is greater than 50%. The measure of the tax is the total selling price of \$1,000,000. The REET liability is \$12,800.

### Example 2

Facts:

- Seller agrees to sell 3 parcels of real property to buyer (parcel A, parcel B, and parcel C) for \$1,200,000.
- Parcel A is classified as farm and agricultural land for property tax purposes. Parcels B and C are classified as residential property.
- Parcel A is 1,600,000 square feet. Parcels B and C total 400,000 square feet.
- Parcel A's county assessed value (current use value) is \$100,000. Parcel B and C have a total county assessed value (market value) of \$900,000.

#### Steps for determining predominant use:

1. Square footage of classified land to total land: 80% (1,600,000 sq. ft. / 2,000,000 sq. ft.)
2. County assessed value of classified land to total land: 10% (\$100,000 / \$1,000,000)
3. Predominant use determination: 45% ((80% + 10%) / 2)

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**Result:** The transaction is subject to the graduated REET rates. The measure of the tax is the total selling price of \$1,200,000. The REET liability is \$14,460.

Threshold	Taxable amount	Rate	State REET due
\$500,000 or less	\$500,000	1.10%	\$5,500
\$500,000.01 - \$1,500,000	\$700,000	1.28%	\$8,960
\$1,500,000.01 - \$3,000,000	\$0	2.75%	\$0
\$3,000,000.01 or more	\$0	3%	\$0
<b>Total state REET due</b>			<b>\$14,460</b>

### Controlling interest transfers

The term sale, for the purpose of determining the application of REET, is modified so that REET applies to the transfer or acquisition within any 36-month period, rather than a 12-month period, of a controlling interest in any entity with an interest in real property in the state. For more information, please see our [Excise Tax Advisory](#) on our website.

### How to pay the tax

County treasurers collect state and local REET, except for REET that applies to the acquisition of a controlling interest, which is reported directly to the Department of Revenue. Please see the revised REET [single location affidavit](#) and [multiple location affidavit](#) on our website for reporting instructions.

### REET avoidance

The department has the authority to disregard the form of a transaction, or series of transactions, and determine the proper tax treatment based on the substance of the transaction(s). This can be done when transactions are structured in a way that serves no meaningful purpose other than to avoid or reduce the REET. This authority includes, but is not limited to, treating multiple sales as a single sale. RCW 82.45.235, effective Jan. 1, 2020. ([RCW 82.32.655](#) (2) (a), (b), (c), and (f))

## Examples of REET avoidance

The following are examples of how the authority to disregard a transaction or transactions may apply.

### Example 1

Facts: Prime Office Inc. agrees to buy a large office building in Seattle for \$3,500,000 from King Commercial Inc. To avoid paying a higher REET rate on the sale, the parties agree to structure the sale as seven separate (1/7 interest) transactions, each with a selling price of \$500,000. (1/7 x \$3,500,000). Prime Office and King Commercial have no meaningful reason to structure the sale in this manner, other than to avoid higher REET rates within the graduated table.

**Result:** The department will disregard the form of the separate transactions and treat the transaction as one sale, with a selling price of \$3,500,000. The correct calculation is shown here:

Threshold	Taxable amount	Rate	State REET due
\$500,000 or less	\$500,000	1.10%	\$5,500
\$500,000.01 - \$1,500,000	\$1,000,000	1.28%	\$12,800
\$1,500,000.01 - \$3,000,000	\$1,500,000	2.75%	\$41,250
\$3,000,000.01 or more	\$500,000	3%	\$15,000
<b>Total state REET due</b>			<b>\$74,550</b>

### Example 2

#### Facts:

- Seller agrees to sell 3 parcels of real property to buyer (parcel A, parcel B, and parcel C) for \$2,400,000.
- Parcel A is classified as farm and agricultural land for property tax purposes. Parcels B and C are classified as residential property.
- Parcel A is 1,600,000 square feet. Parcels B and C total 800,000 square feet.
- Parcel A's county assessed value (current use value) is \$600,000. Parcel B and C have a total county assessed value (market value) of \$1,800,000.

Upon determining the predominant use of the real property included in the transaction did not qualify for the flat 1.28% rate, the seller decided to structure the sale as two separate transactions. One transaction for Parcel A (\$600,000) and the other transaction for Parcels B and C (\$1,800,000).

**Result:** Assuming the form of the transaction above was used to avoid the higher graduated REET rates, the department will disregard the form of the separate transactions and treat them as a single sale. The correct calculation is shown below:

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**Note:** The department will give the taxpayer an opportunity to demonstrate a meaningful purpose for arranging the conveyance as two separate sales transactions, other than to avoid the higher graduated REET rates.

Threshold	Taxable amount	Rate	State REET due
\$500,000 or less	\$500,000	1.10%	\$5,500
\$500,000.01 - \$1,500,000	\$1,000,000	1.28%	\$12,800
\$1,500,000.01 - \$3,000,000	\$900,000	2.75%	\$24,750
\$3,000,000.01 or more	\$0	3%	\$0
<b>Total state REET due</b>			<b>\$43,050</b>

## Future updates to graduated REET rates

The department is required to review and update the selling price thresholds based on inflation. The department must determine whether the selling price thresholds require adjustment beginning July 1, 2022, and every fourth year thereafter. The department will publish the updated selling price thresholds by Sept. 1, 2022, and Sept. 1st every fourth year thereafter. The department intends to provide further information about the thresholds in an Excise Tax Advisory (ETA). Please see the department's website on [draft ETAs](#) or [adopted ETAs](#) for further information.

## Definitions

**Sale of real property** includes any conveyance, grant, assignment, quitclaim, or transfer of ownership or title of real property (or interest therein) for a valuable consideration.

## More information

[dor.wa.gov/REET](http://dor.wa.gov/REET)

[Engrossed Substitute Senate Bill 5998](#)

## Questions

If you have questions on how to determine the predominant use of real property, or how to calculate REET on a conveyance of real property with multiple parcels, you can request a tax ruling at [dor.wa.gov/rulings](http://dor.wa.gov/rulings).

For general tax questions please call 360-705-6705.

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