

REAL ESTATE EXCISE TAXES
Chapters 82.45 and 82.46 RCW

Tax Base

Sales of real estate measured by the full selling price, including the amount of any liens, mortgages, or other debts. The tax also applies to transfers of controlling interests in entities that own property in the state.

Tax Rate

State = 1.28 percent. The majority of the tax goes to the state general fund. A small portion is earmarked for local public works (6.1 percent) and assistance to certain cities and counties (1.6 percent) (RCW 82.45.060).

Cities and counties = up to 0.25 percent for financing of capital improvements (RCW 82.46.010(2)). Thus, the combined state/local tax rate is 1.53 percent in 134 cities and 20 counties that have implemented the original 0.25 percent local tax.

Cities and counties = up to an additional 0.25 percent for exclusive use in financing capital projects specified in a comprehensive plan (RCW 82.46.035(2)). This tax was authorized in 1990 and has been implemented to date by 132 cities and 19 counties. Thus, the combined total tax rate is 1.78 percent in these jurisdictions.

Cities and counties = up to 0.5 percent for general purposes of the city or county (RCW 82.46.010(3)). However, this tax may only be imposed if the city or county does not levy the second 0.5 percent local sales tax pursuant to RCW 82.14.030(2). The cities of Clarkston and Asotin are the only jurisdictions which levy this rate.

Counties = up to 1 percent for exclusive use in acquiring and maintaining conservation areas (RCW 82.46.070). This tax, authorized by the Legislature in 1990, has been implemented only in San Juan County.

Counties = 0.5 percent for financing acquisition, construction, and operation of affordable housing facilities for persons with low/moderate income or those with special needs (RCW 82.46.075). Authorized in 2002, the statute requires that the county must have imposed the 1 percent local real estate excise tax (REET) for conservation areas (above) by January 1, 2003. Since the conservation areas tax was only levied by San Juan County, this tax for affordable housing is effectively restricted to San Juan County. However, San Juan County has not yet exercised this authority.

Combined state/local rate in most areas	= 1.53% or 1.78%
Highest combined rate (Friday Harbor)	= 2.78%

Levied by State, cities, and counties. For the two local 0.25 percent taxes and the 0.5 percent local tax, the county rate only applies in the unincorporated area and the city rate only applies within the city. The two county taxes apply countywide, including incorporated areas.

Recent Collections (\$000)

<u>Fiscal Year</u>	<u>Collections*</u>	<u>% Change</u>	<u>% of All State Taxes</u>
2009	\$426,048	(40.6)%	2.7%
2008	716,680	(38.2)	4.2
2007	1,159,670	14.8	6.9
2006	1,010,457	22.8	6.6
2005	823,110	33.7	6.0
2004	615,618	19.8	4.7
2003	513,996	18.7	4.2
2002	432,910	(0.3)	3.7
2001	434,310	(0.2)	3.7
2000	435,088	1.7	3.7

*State tax only

According to data reported by local governments to the State Auditor via the Local Government Financial Reporting System (LGFRS), local real estate excise taxes collected during calendar year 2008 amounted to \$202.4 million:

Local REET Collections*

Cities	\$133.0 million
Counties	\$ 69.4 million

*Includes local REET taxes and fees for capital projects, conservation areas, but not the special affidavit fees or the county administrative fee for collecting the state tax.

Administration

The real estate excise tax is typically paid by the seller of the property, although the buyer may be liable for the tax if it is not paid. However, the 1 percent county tax adopted in 1990 specifically imposes the tax upon the purchaser. The Department of Revenue is generally responsible for the state tax, including promulgation of rules, preparation of the affidavit form, and enforcement actions. County treasurers collect the state and local taxes, except for the tax that applies to acquisition of the controlling interests which is reported directly to the Department. A program established in 2005 required transfers of controlling interests in an entity that owns real property to be reported to the Secretary of State.

Counties retain 1.3 percent of the collections from the state tax, the initial city/county tax of 0.25 percent, and the 0.5 percent city/county tax as compensation for the cost of collection. The tax is paid along with filing of an affidavit form which is signed by the seller and the buyer of the property. The affidavit contains the identification of the buyer and seller, a description of the parcel, the selling price, and other information about the property.

Major changes were instituted in 2005 relating to the manner in which the state tax is paid to the State Treasurer by the counties. A new electronic payment system is being developed and additional fees have been applied to each affidavit to finance these improvements. Starting on July 1, 2006, the state tax that is collected during any month must be remitted to the State Treasurer by noon of the last working day of each month, instead of by the 20th day of the following month.

Distribution of Receipts

Currently, 1.3 percent of the state tax collected by counties is retained to cover administration costs (the county fee was 1 percent prior to July 1, 2006). Of the net proceeds to the state, RCW 82.45.060 specifies that 6.1 percent is to be deposited in the public works assistance account to help fund maintenance of local government public works facilities, and 1.6 percent goes to a new city/county assistance fund distributed pursuant to RCW 43.08.290. The remainder goes to the state general fund. Penalties on delinquent tax payments are dedicated to the housing trust fund pursuant to RCW 82.45.100(6).

State tax receipts in Fiscal Year 2009 were distributed as follows (\$000):

General fund	\$ 389,103
Public works assistance	28,781
City/county assistance	7,549
Housing trust fund	615
TOTAL	\$ 426,048

See discussion under Tax Rate section for use of local tax funds.

Exemptions, Deductions and Credits

- exemption for property acquired by gift, inheritance, and other transfers which do not represent market transactions at "arm's length," such as transfers to a corporation or partnership owned by the transferor or his/her own family members.
- exemption for transfers to lien holders when such transfers are in lieu of foreclosure.
- exemption for real property acquired from a governmental entity.
- exemption for business transfers in which no gain or loss occurs.
- trade-in credit. When a single-family residential property is transferred as either partial or entire consideration for the purchase of another single-family parcel, a credit for the

- amount of the tax paid at the time of the first transfer is allowed toward the amount of the tax due upon the subsequent transfer of the same property.
- standing timber, if the income from the timber sale is subject to B&O tax.

History

The real estate excise tax was initially authorized as a county tax in 1951. The statute permitted a tax of 1 percent with all receipts dedicated to school districts in the county, except for 0.5 percent which was retained by the county to cover administration costs.

Consistent with the 1978 court ruling that funding for basic education is a state responsibility, this tax was shifted to the state level, effective September 1, 1981. Actual collection of the tax remained with county treasurers. All receipts, except 1 percent for county collection costs, were earmarked within the state general fund for education.

Two surtaxes were applied during 1982; these increased the state tax rate to 1.07 percent. Also in 1982, the first two local real estate taxes were authorized: 0.25 percent for capital purposes and 0.5 percent in lieu of the second 0.5 percent local sales tax.

In 1987, the Legislature repealed the conveyance tax which was a tax of \$1.00 (50 cents until 1983) for each \$500 of equity in real estate and other instruments conveyed to another person by the owner. In its place, the rate of the real estate excise tax was raised by an equivalent amount, so that the state rate was increased from 1.07 to 1.28 percent, effective on May 18, 1987. (In 1985, the Legislature dedicated a portion of the conveyance tax receipts to the public works assistance account which helps local governments maintain streets, bridges, sewers, etc. An equivalent percentage, 7.7 percent, of the state real estate excise tax was accordingly dedicated to this account.)

The same 1987 legislation imposed an additional real estate excise tax of 0.06 percent to provide funding for state acquisition of conservation lands by the Department of Natural Resources. This additional tax, which raised the state rate to 1.34 percent, was effective from May 18, 1987, until June 30, 1989, when it expired.

Two local REET taxes, the 1 percent county tax for conservation areas and the 0.25 percent city/county tax for capital projects specified in comprehensive local plans, were authorized in 1990. The 1 percent local tax for affordable housing was established in 2002.

In 1993 the tax was extended to the acquisition of a controlling interest in an entity which owns real property within the state. The tax applies only to the real property which the entity owns in Washington. This change was enacted to counter a growing practice of structuring transactions involving commercial/industrial property to avoid the tax. Also, the previous exemption for sales of real estate to a governmental entity was repealed. In 1999, controlling interests were defined as any acquisition of an entity within a 12-month period, even if the acquisition occurs in steps.

Changes in the dedicated portion of the state tax occurred in 2005. The percentage for public works was reduced from 7.7 to 6.1 percent, and a new distribution of 1.6 percent was provided as assistance to cities and counties with low per capita local sales tax receipts or low per capita assessed value of property.

Major revisions to the administration of the tax were enacted in 2005, effective on July 1, 2006. An electronic payment system was established, and new fees to finance the costs were applied to each real estate affidavit to finance the costs of upgrading county processing systems. Transmittal of the state tax was advanced from the 20th day of the following month to the last working day of the month. Also, the county administrative fee was increased from 1 to 1.3 percent.

In 2009, a new \$5 fee was applied to each real estate affidavit filed at the expiration of the current \$5 fee which finances the county computer enhancement costs. The new fee commences on July 1, 2010, and will last through December 2013; the receipts of the fee are dedicated to financing costs incurred in county assessors' office relating to annual updating of assessed values in all counties. Starting in 2014, the \$5 fee receipts will be split between the property revaluation program and the real estate affidavit processing system.

Discussion/Major Issues

During Fiscal Year 2009 there were approximately 198,500 taxable sales of real estate in Washington. The number of sales was down significantly from the peak of 364,900 in 2005 and 2006. Collections of the tax mirror changes in the local housing market and therefore can exhibit significant volatility, making the receipts difficult to forecast. The state tax averaged annual increases of 22 percent from Fiscal Year 2003 through Fiscal Year 2007; this was followed by two years of record declines - 38 percent and 40 percent, respectively. (See the chart at the end of the Overview section.)

Traditionally, the state tax has been devoted to funding of K-12 education, although that specific dedication was removed from the statute in 2005. Funds from the state and local real estate excise taxes have been used to finance programs resulting from rapid development and in-migration into the state (e.g., for assistance with public infrastructure projects). Since the need for investment in public facilities is often related to population and since new residents often purchase real estate, this has been considered an appropriate revenue source for such programs.

The distribution to the city/county assistance fund (1.6 percent of the net state tax) restores some funding to local jurisdictions with low per capita retail sales and property valuations. This is to recognize that cities and counties do not benefit equally from their local sales and property taxes. The program is similar to one that provided assistance from the state motor vehicle excise tax revenues until it was repealed in 2000.