STATE OF WASHINGTON

DEPARTMENT OF REVENUE

OFFICE OF THE DIRECTOR

P.O. Box 47454 • Olympia, Washington 98504-7454 • (360) 534-1600 • FAX (360) 534-1606

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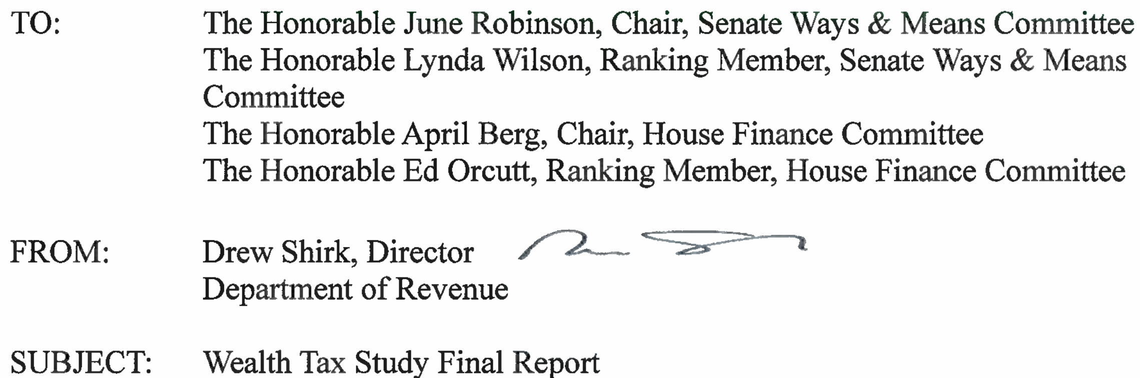

TO: The Honorable June Robinson, Chair, Senate Ways & Means Committee
The Honorable Lynda Wilson, Ranking Member, Senate Ways & Means Committee
The Honorable April Berg, Chair, House Finance Committee
The Honorable Ed Orcutt, Ranking Member, House Finance Committee

FROM: Drew Shirk, Director
Department of Revenue

SUBJECT: Wealth Tax Study Final Report

The Department of Revenue (department) is submitting this report as required by Section 141(9), Chapter 475, Laws of 2023 (the 2023-2025 fiscal biennium operating budget).

If you have any questions or need the report in an alternate format, please contact Steve Ewing, Legislative and External Affairs Liaison, Executive Division, at SteveE2@dor.wa.gov or (360) 534-1545.

Attachment

cc: Sarah Bannister, Secretary, Washington State Senate
Bernard Dean, Chief Clerk, Washington State House of Representatives
Members, Senate Ways & Means Committee
Members, House Finance Committee
Pat Sullivan, Director, Office of Financial Management
Sheri Sawyer, Executive Director, Legislative Affairs, Office of the Governor
Roselyn Marcus, Assistant Director, Office of Financial Management
Rachel Knutson, Budget Assistant, Office of Financial Management

Department of Revenue Washington State

Wealth Tax Study Report

Nov. 1, 2024

Drew Shirk, Director

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Department of Revenue
Washington State

Introduction

This report is prepared as required by Section 141(9), Chapter 475, Laws of 2023 (the 2023-2025 fiscal biennium operating budget). This budget proviso requires the Department of Revenue (department) to:

- Research and analyze wealth taxes imposed in other countries and wealth tax legislation recently proposed by other states and the United States.
- Examine how existing and proposed wealth taxes are structured, compliance and administrative challenges of wealth taxes, best practices in the design and administration of wealth taxes, and potential data sources to aid the department in estimating the revenue impacts of future wealth tax proposals for this state or assisting the department in the administration of wealth tax.
- Consult with relevant subject matter experts from within and outside of the United States.
- Provide a status report to the appropriate fiscal committees of the Legislature by January 1, 2024. This report was submitted on December 20, 2023, and is included as appendix D.
- Provide a final report to the appropriate fiscal committees of the Legislature by November 1, 2024.

Executive summary

Background

This section sets out the definition of a wealth tax, a recurrent tax on the value of a person's ownership of assets, which will be used throughout the report. It also provides the framework for how a wealth tax in Washington could operate. As acknowledged by prior wealth tax proposals considered in Washington, a wealth tax would almost certainly be a property tax subject to the Washington State Constitution's property tax limitations, including the 1% aggregate rate limit and uniformity clause. Lastly, this section discusses the relevant history of property taxes on intangible assets in Washington.

Wealth taxes and wealth tax proposals around the world

This section summarizes current wealth taxes around the world and wealth tax proposals at both the federal and state level. It also discusses noticeable trends in non-U.S. jurisdictions including how most countries have repealed their wealth taxes or replaced them with alternatives. The 2018 OECD report is cited often in this section as it contains information and analysis of the history and current trends of wealth taxes. Lastly, this section provides a summary of all the jurisdictions that responded to the department's wealth tax questionnaire.

Administrative considerations

This section starts by discussing various asset valuation methods mainly focusing on fair market and open market value, the most commonly used methods. The section identifies the main benefits and drawbacks of the various valuation methods as well as a larger discussion around the administrative hurdles faced when trying to value some of the harder to value assets such as privately held business interests.

This section transitions to evaluating the practices and tools that the department utilizes to administer current taxes and breaks them up into two categories, "easily adapted" and "adapted with difficulty." Easily adapted means the department can likely adapt these practices and tools to the administration of a wealth tax with only minor system changes and additional resources to account for the increased workload. Adapted with difficulty

means adapting a practice or tool for the wealth tax may face some structural issues, such as legal hurdles or a general lack of expertise amongst the department's current staff.

Best practices

This section identifies several best practices that should be considered in the development of a wealth tax in Washington including the following:

1. Valuations should be based on a methodology that is relatively easy to perform, simple to verify, and achieves consistent results. The fair market value is proposed as the best practice for a valuation method in Washington.
2. Enforcement tools should be efficient, fair, and effective. Auditing is discussed as the primary tool for enforcement. The department may also have to rely more heavily on nontraditional channels to generate leads such as datamining third-party databases, news articles, and other publicly available information.
3. A high exemption threshold can help mitigate liquidity issues and address equity concerns.
4. Residency based taxation and expatriation tax provisions may aid in the administration of the tax and mitigate the revenue loss from aggressive tax planning. However, these types of provisions in Washington may conflict with Washington state law and the United States Constitution.

Other considerations

This section discusses some of the common features of wealth taxes across the world that may face legal hurdles if incorporated into a wealth tax in Washington.

The section also discusses the potential impact of the recent *Moore v. United States* U.S. Supreme Court decision evaluating the constitutionality of the Mandatory Repatriation Tax (MRT). The *Moore* decision doesn't directly impact a potential Washington wealth tax. However, it could impact the viability of a wealth tax proposal at the federal level which would have indirect administrative impacts on a wealth tax in Washington.

Fiscal model updates

This section discusses the fiscal model for a wealth tax and whether any lessons learned while studying the wealth tax can improve the model's accuracy. Some of the new data that the department could use to update its fiscal model impact includes but is not limited to updated federal personal income return data, updated economic and revenue forecasts, updating data that was originally derived from research papers, and updating interest rates. Additionally, the model could be updated to include a better understanding of the capital flight risk and its potential negative impact on revenue estimates. Importantly, even with updated income, revenue, and other data points, the fiscal model will still struggle to predict the exact revenue that a wealth tax in Washington would generate given limited data availability and the novel nature of the tax.

Conclusion

Wealth taxes may offer a means to address tax inequality and help fund government programs, but their success hinges on a design that takes into consideration the difficulties and previous issues that jurisdictions with a wealth tax have faced. Notably, one of the most difficult hurdles to overcome when evaluating a wealth tax is estimating the revenue from such a tax. However, the department does believe it could administer a wealth tax despite the administrative challenges identified in this report.

Background

1 Definition of a wealth tax

Wealth taxes are generally considered to be recurrent taxes on the value of a person's ownership of assets. They are considered recurrent because they are assessed on a regular interval, usually annually. They are generally assessed on the value of the assets owned by a person regardless of whether the person engages in a transaction related to those assets during the tax reporting period. Depending on the jurisdiction, "wealth" may be defined as the value of any combination of personal assets, including cash, bank deposits, real estate, assets in insurance and pension plans, ownership of unincorporated businesses, financial securities, and personal trusts. Some wealth taxes allow a person to offset the value of their assets by a person's liabilities, such as mortgages and other debts. This type of wealth tax is commonly referred to as a net wealth tax.[1]

2 The framework for a wealth tax in Washington state

2.1 Structure

It's a well-established principle in Washington state that a tax on the mere ownership of property is a property tax.[2] As such, a recurrent tax on the value of a person's ownership of assets would likely be considered a property tax in this state. In fact, the most recent "wealth tax" proposals in Washington, Senate Bill (SB) 5486 and its companion bill, House Bill (HB) 1473, are explicitly referred to as property taxes in their respective bill titles.[3] In Washington, the characterization of a wealth tax as a property tax is a consequential determination that places constitutional limitations on how the tax must be structured and ultimately administered. For the purposes of this report, we assume "wealth tax"

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[1] Saez, E., & Zucman, G., (2019). Progressive wealth taxation. *Brookings Papers on Economic Activity*, Fall, 437–533 at 441. https://doi.org/10.1353/eca.2019.0017

[2] *See e.g., Culliton v. Chase*, 174 Wash. 363, 25 P.2d 81 (1933); *see also Quinn v. State*, 526 P.3d 1 (Wash. 2023).

[3] "Investing in Washington families and creating a more fair tax system by enacting a narrowly tailored ***property tax*** on extreme wealth derived from the ownership of stocks, bonds, and other financial intangible property" (emphasis added).

proposals in Washington would continue to be structured as a recurrent tax on the value of a person's ownership of assets.

3 Property taxes in Washington

In Washington, all real and personal property in the state is subject to property tax each year based on the property's value, unless a specific exemption is provided by law.[4] Washington's existing property taxes are budget-based, meaning each taxing district determines the revenue needed to fund their budget and levies. Specific levy rates are calculated by dividing the levy by the total value of the property in the taxing district. However, we assume "wealth tax" proposals in Washington would not be budget based.

There are two constitutional limitations on property taxes. First, property taxes are limited to an aggregate rate of 1% of the true and fair value of the property per year (hereinafter referred to as the 1% aggregate rate limit).[5] Second, all taxes must be uniform on the same class of property (hereinafter referred to as the Uniformity Clause).[6] We assume "wealth tax" proposals in Washington would be structured to adhere to the current Washington state constitutional requirements above.

3.1 1% aggregate rate limit

There are two components to determining whether a property tax complies with the 1% aggregate rate limit. First, the measure of the tax must be based on the true and fair value of the property. As such, taxpayers and the taxing authority must be able to determine the true and fair value of any property subject to the tax. Further, state law requires that property subject to property tax be appraised at 100% of its true and fair value in money and assessed on the same basis unless specifically provided otherwise by law.[7] Fair value or true value is the amount that a willing and unobligated buyer is willing to pay a willing and unobligated seller.[8] The current process for valuing property in Washington is well-established, subject to oversight by the department, and appealable in the case of

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[4] *See* article VII, section 1 of the Washington state constitution.
[5] *See* article VII, section 1 of the Washington state constitution; Voter approved special levies, such as special levies for schools, may be imposed in addition to this amount.
[6] *See* article VII, section 1 of the Washington state constitution.
[7] *See* RCW 84.40.030. https://app.leg.wa.gov/rcw/default.aspx?cite=84.40.030
[8] *See* Washington State Department of Revenue, Homeowner's Guide to Property Tax at 1. https://dor.wa.gov/sites/default/files/2022-02/HomeOwn.pdf

disagreements. A wealth tax in Washington would need to have a reliable valuation system to ensure the measure of the tax is the true and fair value of property subject to the tax.

Second, the rate of tax on the property cannot exceed 1%. Importantly, the rate limit is determined by looking at the aggregate of all property taxes imposed on a piece of property. To the extent a wealth tax overlaps with other property taxes, the rate should be carefully constructed to avoid running afoul of this constitutional limit.

3.2 Uniformity clause

The Uniformity Clause significantly reduces, or altogether eliminates, the Washinton State Legislature's ability to create property tax exemptions, exceptions, deductions, or credits. There are two notable exceptions to the Uniformity Clause. First, the Legislature has the authority to create different classes of property for tax purposes, provided that real property remains in one class.[9] Originally, the Washington State Constitution required that all property be taxed at a uniform and equal rate of assessment and taxation.

Amendment 14 (1930) changed the language of the Washington State Constitution to permit the Legislature to create different classes of property (except for real property, which had to be the same class).[10] Amendment 14 (1930) also added an express exception to the Uniformity Clause: "Provided: . . . such property as the legislature may by general laws provide shall be exempt from taxation." The Washington Supreme Court has indicated that the Legislature may use its exemption powers to exempt property from property tax based on characteristics of the owner.[11] While there is some precedent for property tax exemptions based on the characteristics of a property owner, there is little case law evaluating what limits might be placed on the Washington State Legislature's ability to exempt property based on the characteristics of the property itself unless expressly granted by the constitution, such as in the case of agricultural lands and open spaces, [12] or in the case of creating a new class of property. Importantly, when using its

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[9] *See* Belas v. Kiga, 135 Wn.2d 913, 921 (1998).

[10] No Washington case has directly addressed whether the Legislature may divide property into classes other than tangible, intangible, real, or personal.

[11] *See Belas v. Kiga*, 135 Wn.2d 913, 931-32 (1998) (dicta).

[12] "Nothing in [the revenue and taxation article] as amended shall prevent the legislature from providing, subject to such conditions as it may enact, that the true and fair value in money (a) of farms, agricultural lands, standing timber and timberlands, and (b) of other open space lands which are used for recreation or

power to exempt, the Legislature should also show clear intent to create an exemption, so it is not construed as using one of its other powers that falls outside the express exception in the Washington State Constitution.[13]

3.3 Local administration of property tax

Almost all property taxes under Title 84 RCW are administered at the local level by county officials.[14] Generally, county assessors determine the value of property subject to tax, and county treasurers collect the property tax due. The county treasurers then distribute the collected taxes to the local government taxing districts and the State Treasurer for the state portion of property taxes. While the department does not collect property tax, the department does oversee the administration of property taxes statewide and values property on state-assessed utilities that cross county lines.[15] The state assessed value is then apportioned back to the respective counties for collection.

4 Relevant history of property taxes

4.1 Former property taxes on intangible personal property in Washington

As Washington considers the adoption of a wealth tax, it is relevant to examine the historical challenges the state faced with taxing intangible personal property, also called intangible assets. Prior to 1998, a broad array of intangible assets were subject to property tax. However, the passage of Engrossed Substitute Senate Bill (ESSB) 5286[16] in 1997 marked a turning point, significantly expanding the exemptions for such assets. The following table provides a comparative overview of the key changes in the taxation of intangible assets before and after the passage of ESSB 5286.

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for enjoyment of their scenic or natural beauty shall be based on the use to which such property is currently applied…". Article VII, Section 11 of the Washington State Constitution.

[13] *See Belas v. Kiga*, 135 Wn.2d 913, at 932.

[14] Certain intercounty and interstate utility companies are state-assessed and subject to central assessment, as required under chapter 84.12 RCW where local assessment would be impractical. In these cases, department appraisers determine the actual values, or market value, for these companies.

[15] *See* Washington State Department of Revenue, Tax Reference Manual at 70. https://dor.wa.gov/sites/default/files/2023-08/2022_TaxReferenceManual.pdf

[16] *See* Engrossed Substitute Senate Bill 5286 (1997). https://lawfilesext.leg.wa.gov/biennium/1997-98/Pdf/Bills/Session%20Laws/Senate/5286-S.SL.pdf?q=20240926144058

Intangible property comparison before and after passage of ESSB 5286

	Pre-ESSB 5286	Post-ESSB 5286
Exempted Intangible Property	All moneys and credits including mortgages, notes, accounts, certificates of deposit, tax certificates, judgments, state, county, and municipal bonds, and warrants and bonds and warrants of other taxing districts, bonds of the United States and of foreign countries or political subdivisions thereof and the bonds, stocks, or shares of private corporations, private nongovernmental personal service contracts, private nongovernmental athletic or sports franchises, and agreements not related to tangible or real property.	Expanded to include other intangible personal property, such as trademarks, trade names, brand names, patents, copyrights, trade secrets, licenses, permits, core deposits of financial institutions, noncompete agreements, clientele, customer lists, patient lists, favorable contracts, favorable financing agreements, reputation, exceptional management, prestige, good name, and integrity of a business.
Explicit Exclusions from Intangible Property	Not Specifically Detailed	Excluded zoning, location, view, geographic features, easements, covenants, proximity to raw materials, condition of surrounding property, proximity to markets, the availability of a skilled workforce, and other characteristics or attributes of property.

While the Legislature was considering these significant overhauls, the House Bill report for ESSB 5286 noted the administrative difficulty in identifying and valuing intangible assets: "Intangible assets are often difficult to identify, locate, and value. The correct treatment of intangible assets for property tax purposes is a matter of some controversy."[17]

a) Administrative challenges identified from administering a property tax on intangible assets

ESSB 5286 required the department to "submit a report to the House Finance Committee, the Senate Ways and Means Committee, and the Office of the Governor on tax shifts, tax losses, and any litigation resulting from [ESSB 5286]." This report, titled Property Tax Exemption of Intangible Assets,[18] made the following observations regarding the taxation and valuation of intangible assets:

- Pre- ESSB 5286 Methodologies: Statutory valuation methods primarily focused on the intangible assets associated with complex commercial and utility properties, which may not have worked well for other property types.
- Variability in Valuations: The inclusion of intangible asset value in assessments varied based on the appraisal methods used and the skill level of individual appraisers, leading to inconsistencies.
- Difficulty for Assessors: Intangible assets were difficult to identify or value accurately across counties due to a lack of physical presence and the fact that these assets are often not recognized until a sale occurs.
- Economic Shift: There was a significant increase in intangible assets, especially intellectual property.

Another concern with the pre-ESSB 5286 property tax including intangible assets was the risk of double taxation insofar as some intangible asset values may have already been

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[17] *See* House Bill Report for ESSB 5286 (1997), https://lawfilesext.leg.wa.gov/biennium/1997-98/Pdf/Bill%20Reports/House%20Historical/5286-S%20BRH%20APH.pdf?q=20240830123259
[18] *See* Department of Revenue, Property tax exemption of intangible assets (2000). https://dor.wa.gov/sites/default/files/2023-09/Intang.PDF?uid=65120c30a2692

picked up in some assessments of real property and be double assessed if assessors actively pursued listing and valuing personal property.[19]

While ESSB 5286 aimed to simplify and modernize the tax code, the complexities inherent in identifying and valuing intangible assets remain to this day, presenting significant considerations for the effective implementation of a wealth tax.

As this wealth tax report will highlight below, many of these administrative challenges are issues that the department may face during the implementation of a wealth tax in Washington.

b) Lessons learned from prior property tax on intangible assets as applied to a wealth tax

Washington's experience in administering a property tax on intangible assets pre-ESSB 5286 should be taken into consideration in the development and administration of a wealth tax, particularly the difficulty faced in accurately identifying, verifying, and valuing intangible assets with no physical presence. These difficulties led to increased administrative and compliance costs due to enhanced staffing requirements for the department and increased reporting complexity for taxpayers.[20]

One of the main administrative challenges prior to the intangible assets tax exemption clarifications enacted in 1997 by ESSB 5286 was the difficulty in identifying the situs and sourcing of intangible assets. It can be difficult to determine the situs[21] of intangible assets due to their lack of physical presence. Washington should avoid attempting to site an intangible asset based on the characteristics of the asset and instead rely on the well-established principle of siting intangible assets based on the location of their owner whenever possible. Notably, the 2024 wealth tax bills[22] in Washington proposed to tax an individual's "worldwide wealth" excluding non-financial assets, which largely mitigates the issues with identifying intangible asset situs. Any subsequent proposals should consider a

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[19] *See* Department of Revenue, Property tax exemption of intangible assets (2000) at 10. https://dor.wa.gov/sites/default/files/2023-09/Intang.PDF?uid=65120c30a2692
[20] *See generally* Department of Revenue, Property tax exemption of intangible assets (2000). https://dor.wa.gov/sites/default/files/2023-09/Intang.PDF?uid=65120c30a2692
[21] *See* LSD Law. *Tax Situs. https://www.lsd.law/define/tax-situs.*
[22] SB 5486 (2024) and HB 1473 (2024).
https://app.leg.wa.gov/billsummary?BillNumber=5486&Initiative=false&Year=2023
https://app.leg.wa.gov/billsummary?BillNumber=1473&Chamber=House&Year=2023

similar approach. Although the approach taken in these proposals may resolve some of these issues by excluding non-financial intangible assets, identifying the situs and value of taxable worldwide assets will still pose significant challenges. The valuation challenges faced in administering wealth tax, even when a wealth tax is limited to financial intangible assets, are discussed in more detail below.

Additionally other administrative challenges were identified, including:

- Potential for double taxation if intangible assets were included in the assessment of real property and also separately listed and taxed.
- A high cost associated with attempting to accurately perform such assessments due to the difficulty of identifying and valuing the intangible assets.
- Difficulty in identifying certain forms of intangible assets if there is no sale.
- Difficulty in accurately valuing intangible assets if there is no sale.

c) Reliance on voluntary compliance

Historically, taxation of intangible assets in Washington mainly relied on voluntary compliance, which may have resulted in an inconsistent application among taxpayers as stated by the Legislature in the intent section of the original proposal, SB 5286 (1997).[23] It is assumed any proposed Washington wealth tax would similarly rely on voluntary compliance. To better support voluntary compliance, a wealth tax in Washington should allow taxpayers to efficiently and cost effectively calculate their tax due and file their wealth tax return. By designing a wealth tax with voluntary compliance as a driving factor, a higher voluntary compliance rate could be achieved and the pre-1997 challenges of how the intangible assets tax exemptions worked could be minimized.

[23] Subsequent versions of the bill, including the bill that passed the Legislature (ESSB 5286), did not have an intent section.

Wealth taxes and wealth tax proposals around the world

5 Prevalence of wealth taxes

In the United States, neither the federal government nor any state levies a wealth tax. However, wealth taxes do exist in a number of countries, including Argentina, Belgium,[24] Bolivia, Colombia, Italy,[25] the Netherlands,[26] Norway, Spain, Switzerland, and Uruguay.

6 Noticeable trends in U.S. jurisdictions

6.1 U.S. federal proposals

At the federal level, Senator Elizabeth Warren (MA) and Representative Pramila Jayapal (WA) have proposed the Ultra-Millionaire Tax Act.[27] The proposal would create a 2% annual tax on the net worth of households and trusts between $50 million and $1 billion, a 1% annual surtax (3% tax overall) on the net worth of households and trusts above $1 billion, and anti-tax evasion and avoidance measures on wealth held in trusts. The bill was

[24] Belgium imposes a solidarity tax on securities accounts in excess of a certain amount.
[25] Italy's wealth tax is limited to real property and certain assets owned outside of the country.
[26] The Netherlands repealed its wealth tax and replaced it with an imputed tax on savings and investments based on a deemed flat rate of return known as a "box 3 levy". In 2021, the High Council of the Netherlands invalidated it on the grounds that it violates the prohibition on discrimination and the right to peaceful enjoyment of possessions. In 2024, the High Council of the Netherlands invalidated the Box 3 Legal Redress Act which was enacted in replacement of the invalidated box 3 levy. As of the writing of this report, any replacement tax or calculation method has not been adopted.
[27] *See* S.4017 - 118th Congress (2023-2024): *Ultra-Millionaire Tax Act of 2024*. (2024, March 21). https://www.congress.gov/bill/118th-congress/senate-bill/4017; *see also* H.R.7749 - 118th Congress (2023-2024): Ultra-Millionaire Tax Act of 2024. (2024, March 20). https://www.congress.gov/bill/118th-congress/house-bill/7749.

introduced in the Senate and House, but no further action was taken. As of the writing of this report, the bill has not passed.

Senator Ron Wyden (OR) introduced the Billionaires Income Tax Act in 2023.[28] The bill would require an individual with a net worth that exceeds $100 million to have their tradable assets marked to market each year, commonly referred to as a mark-to-market tax.[29] A mark-to-market tax is a tax that requires a taxpayer to recognize gains or losses on an asset owned by the taxpayer at the end of a reporting period, usually the end of the tax year, as if the asset was sold for its fair market value on that date with adjustments made for mark-to-market taxes paid in prior years.[30] In the case of an applicable transfer of a non-tradable asset that results in gain, the proposed tax imposed on that gain is increased by the deferral recapture amount, an amount akin to interest charged on deferred tax. The proposal contained provisions to assist with the transition to the new tax, including an election to pay the tax on tradable assets over five years in the first year it's due for an individual. There were also protections put in place to ensure the proposal would not affect the ability of an individual who founds a company to maintain their controlling interest. The bill was introduced in the Senate, but no further action was taken. As of the writing of this report, the bill has not passed.

6.2 Domestic state and local government proposals

Since this report was first commissioned, lawmakers in California, Hawaii, Illinois, New York, Vermont, Washington and the city of Philadelphia have introduced some form of a wealth tax, but none of these proposals have been signed into law.

6.3 California

During the 2023 legislative session, California lawmakers proposed Assembly Bill 259, which would have imposed an annual tax beginning on or after January 1, 2024, and before January 1, 2026, at a rate of 1.5% of a resident's worldwide net worth in excess of $1 billion or in excess of $500 million in the case of a married taxpayer filing separately.[31] After

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[28] *See* S.3367 - 118th Congress (2023-2024): *Billionaires Income Tax Act*. (2023, November 30). https://www.congress.gov/bill/118th-congress/senate-bill/3367

[29] See Sen. Wyden, *The Billionaires Income Tax*, one pager (2023). https://www.finance.senate.gov/imo/media/doc/billionairesincometaxonepager.pdf

[30] *See e.g.*, I.R.C. § 475.

[31] *See* Assembly Bill 259 (2023-2024), *Wealth Tax: False Claims Act*. (2023, January 19). https://legiscan.com/CA/text/AB259/id/2653091

January 1, 2026, the taxable net worth threshold would fall to a net worth in excess of $50 million or in excess of $25 million in the case of a married taxpayer filing separately.

The proposed wealth tax would have included a four-year phase-in and four-year phase-out for individuals moving into the state and leaving the state. The phase-in and phase-out was achieved by including an apportionment factor dependent on the number of years a taxpayer was a resident of California over the last four years. This apportionment factor would be used to calculate the proportion of a taxpayer's wealth subject to tax.

California included a similar phase-in and phase-out provision for Assembly Bill 2088 during the 2020 legislative session. [32] This phase-in and phase-out period for individuals moving into the state and leaving the state used a California residency period of ten years rather than four years. Assembly Bill 259 had a hearing on January 10, 2024, in the Committee on Revenue and Taxation. Neither bill has passed.

6.4 Hawaii

During the 2023 legislative session, Hawaii lawmakers introduced Senate Bill 925, which would have established a wealth asset tax of 1% on the state net worth of each individual taxpayer who holds $20 million or more in assets in Hawaii. [33] A taxpayer's state net worth includes the aggregate value of all assets, including real property, financial intangible assets, and tangible personal property. The bill did not pass.

During the 2022 legislative session, a similar proposal, Senate Bill 2389, was introduced which would have established a wealth asset tax of 1% on all assets of a taxpayer except for interests in real property in excess of $50 million, and an additional 0.5% surtax on assets in excess of $1 billion. [34] Senate Bill 925 had a hearing in the Judiciary Committee on February 2, 2024. The bill did not pass.

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[32] *See* Assembly Bill 2088 (2019-2020), *Wealth Tax*. (2020, February 5). https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB2088

[33] *See* Senate Bill 925 (2023), *Relating to A Wealth Asset Tax*. (2023, February 7). https://legiscan.com/HI/text/SB925/id/2686407

[34] *See* Senate Bill 2389 (2022), *Relating to A Wealth Asset Tax*. (2022, January 21). https://legiscan.com/HI/bill/SB2389/2022

6.5 Illinois

During the 2023 legislative session, Illinois lawmakers introduced House Bill 3039, which would have established a mark-to-market tax on the gains or losses of net assets held by a resident taxpayer worth a fair market value in excess of $1 billion. [35] The bill attempted to address tax avoidance by outlining that any feature of an asset, such as a poison pill that was added with the intent and has the effect of reducing the value of the asset, is disregarded for valuation purposes. The bill provided select administrative provisions for the Illinois Department of Revenue (IDOR), such as requiring the IDOR to specifically request the filing of mark-to-market tax forms by any resident individual expected to have net assets in excess of $1 billion. The bill would have also required taxpayers with an adjusted gross income summed over the previous 10 years in excess of $600 million to file the mark-to-market tax forms. However, most other aspects of administration and enforcement for the bill were left to the IDOR to adopt rules as necessary. The bill was referred to the Rules Committee but did not pass.

6.6 New York

During the 2023 legislative session, New York lawmakers introduced Senate Bill S1570, which is nearly identical in structure to that of Illinois's House Bill 3039 discussed above. [36] The bill was referred to the Budget and Revenue Committee but did not pass.

6.7 Vermont

During the 2024 legislative session, Vermont lawmakers proposed House Bill H.827, which would have applied income tax to 50% of the unrealized gain or loss of a taxpayer's assets.[37] This treatment would only apply to individuals with a net worth of $10 million or more. The bill would cap the amount of unrealized gains subject to taxation at 10% of the worth of a taxpayer's net assets in excess of $10 million in a tax year. The bill was referred to the Committee on Ways and Means but did not pass.

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[35] *See* House Bill 3039 (2023), *Mark to Market Tax*. (2023, February 16).
https://www.ilga.gov/legislation/BillStatus.asp?DocNum=3039&GAID=17&DocTypeID=HB&SessionID=112&GA=103

[36] *See* Senate Bill S1570 (2023), *Establishes a billionaire mark-to-market tax*. (2023, January 12).
https://legislation.nysenate.gov/pdf/bills/2023/S1570

[37] *See* House Bill H.827 (2024), *An act relating to applying personal income tax to unrealized gains*. (2024, January 16). https://legislature.vermont.gov/bill/status/2024/H.827

6.8 Washington

During the 2023 legislative session, Washington lawmakers introduced SB 5486 and HB 1473, which was a narrowly tailored property tax on extreme wealth derived from the ownership of stocks, bonds, and other financial intangible property. [38] This proposal would have imposed a wealth tax on each Washington resident at a rate equal to one percent multiplied by the Washington resident's taxable worldwide wealth. Taxable worldwide wealth was defined as the fair market value of all of a person's financial intangible assets as of December 31 of the tax year. Up to $250 million of a person's financial intangible assets would be exempt from the tax. The bills were heard in the Senate Ways & Means Committee and House Finance Committee but did not pass.

6.9 Philadelphia, Pennsylvania

In 2022, city council members in Philadelphia proposed Ordinance No. 220297, which would have imposed a 0.4% tax on the intangible wealth of city residents structured as a personal property tax. [39] Tax qualified retirement accounts and savings deposits would be exempt from taxation. The bill was referred to the Committee on Finance but did not pass.

6.10 Nevada - Study

During the 2023 legislative session, Nevada lawmakers proposed Assembly Concurrent Resolution 7, which directed the Joint Interim Standing Committee on Revenue to conduct a study regarding wealth taxes during the 2023-2024 interim. [40] The resolution was referred to the Committee on Legislative Operations and Elections but did not pass.

6.11 Texas – Prohibition

Texas Proposition 3, "Prohibit Taxes on Wealth or Net Worth Amendment", was placed on the ballot in Texas as a legislatively referred constitutional amendment on November 7,

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[38] *See* SB 5486 (2024) and HB 1473 (2024).
https://app.leg.wa.gov/billsummary?BillNumber=5486&Initiative=false&Year=2023
https://app.leg.wa.gov/billsummary?BillNumber=1473&Chamber=House&Year=2023

[39] *See* Ordinance No. 220297 (2022), *Amending Chapter 19-1100 of The Philadelphia Code ("Personal Property Taxes") to impose an annual tax on certain intangible personal property, all under certain terms and conditions*. (2022, March 31).
https://phila.legistar.com/LegislationDetail.aspx?ID=5541357&GUID=BEA9DF9E-D476-46C2-AECF-FD8FE286EF14&Options=&Search=

[40] *See* Assembly Concurrent Resolution 7 (2023), *Directs the Joint Interim Standing Committee on Revenue to conduct a study regarding wealth taxes during the 2023-2024 interim. (BDR R-698)*. (2023, March 27).
https://www.leg.state.nv.us/App/NELIS/REL/82nd2023/Bill/10372/Overview

2023.[41] The ballot measure was approved, which resulted in Article 8, Section 25 being added to the Texas Constitution to prohibit the state Legislature from imposing a tax based on the wealth or net worth of an individual or family.

7 Noticeable Trends in Non-U.S. Jurisdictions

It can be difficult to draw conclusions from noticeable trends in non-U.S. jurisdictions due to the varied tax structures and wealth tax bases in these jurisdictions. Further complicating the study of trends in other jurisdictions is the fact that each jurisdiction can have a distinct property tax regime that operates in addition to their wealth tax.[42] The department's evaluation of trends was further complicated by our limited contacts within these jurisdictions and lack of expertise in international tax law. With that said, we have compiled some generally observed trends which are detailed below.

Over the last three decades, many countries have repealed their wealth taxes, including Austria, Denmark, France,[43] Germany, Finland, Iceland, Luxembourg, and Sweden.[44] Despite a trend of countries repealing their wealth taxes in recent years, some countries have introduced, reintroduced, or introduced complementary wealth taxes during this same time, including Argentina, Bolivia, Colombia, and Spain.

Many factors have been put forward to justify the repeal of net wealth taxes such as the high administrative and compliance costs when compared to their relatively limited revenues.[45] More recent research has indicated that tax elasticity, avoidance, and evasion may have played the most significant role in the "failure" of these wealth tax regimes.[46]

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[41] *See* Texas Proposition 3 (2023). *Prohibit Taxes on Wealth or Net Worth Amendment*. (2023, November 7). https://www.sos.state.tx.us/about/newsreleases/2023/080423.shtml w

[42] OECD, The Role and Design of Net Wealth Taxes in the OECD, 23, *OECD Tax Policy Studies*, No. 26, OECD Publishing, Paris, (2018) https://doi.org/10.1787/9789264290303-en [hereinafter OECD, Net Wealth Taxes]

[43] In 2017, France replaced its wealth tax with a real estate property tax.

[44] OECD, The Role and Design of Net Wealth Taxes in the OECD, 23, *OECD Tax Policy Studies*, No. 26, OECD Publishing, Paris, (2018) at 16. https://doi.org/10.1787/9789264290303-en

[45] *See generally* OECD, The Role and Design of Net Wealth Taxes in the OECD, 23, *OECD Tax Policy Studies*, No. 26, OECD Publishing, Paris, (2018) https://doi.org/10.1787/9789264290303-en & Perret, S. (2021). *Why did other wealth taxes fail and is this time different?* Wealth Tax Commission Evidence Paper, 6.

[46] *See* Galle, B., Gamage, D., & Shanske, D. (2023). *Solving the Valuation Challenge: The Ultra Method for Taxing Extreme Wealth*, 72 Duke L.J. 1257-1343, 1279. (citing Saez E., & Zucman G., (2019), & Perret, S., (2021)) (discussing tax avoidance and evasion as reasons why wealth taxes have supposedly failed); See also Zoutman, F.T. The Elasticity of Taxable Wealth: Evidence from the Netherlands. Mimeo, Norwegian School of

Additionally, the revenues collected from net wealth taxes have, with few exceptions, been low despite rising wealth levels.[47]

Recent trends have generally shown jurisdictions increasing wealth tax exemption thresholds and lowering wealth tax rates.[48] For example, in Switzerland, some cantons have lowered taxes on high-net-worth individuals, including wealth taxes, in an apparent effort to be more tax competitive.[49] France has also lowered wealth tax rates from their peak in the early 2000s. In 2013, Norway also lowered its wealth tax rate. However, it's important to note that this trend is not universal, as some jurisdictions have not changed their wealth tax rates in decades, such as Spain. [50]

Additionally, the 2018 OECD report on wealth taxes noted that:

> "there are limited arguments for having a net wealth tax on top of well-designed capital income taxes – including taxes on capital gains – and inheritance taxes, but that there are arguments for having a net wealth tax as an (imperfect) substitute for these taxes."[51]

Further, the OECD report concluded:

Economics (2018) (discussing elasticity as a reason why wealth taxes have supposedly failed); see also Brülhart, M., Gruber, J., Krapf, M., & Schmidheiny, K. (2022). *Behavioral responses to wealth taxes: Evidence from Switzerland*. American Economic Journal: Economic Policy, 14(4), 111–150. (discussing how changes in declared wealth, asset holdings, and inter vivos transfer may be driving observed wealth tax elasticities as opposed to mobility).

[47] OECD, The Role and Design of Net Wealth Taxes in the OECD, 23, *OECD Tax Policy Studies*, No. 26, OECD Publishing, Paris, (2018) at 19. https://doi.org/10.1787/9789264290303-en

[48] OECD, The Role and Design of Net Wealth Taxes in the OECD, 23, *OECD Tax Policy Studies*, No. 26, OECD Publishing, Paris, (2018) https://doi.org/10.1787/9789264290303-en at 17; Perret, S. (2021). Why did other wealth taxes fail and is this time different? Wealth Tax Commission Evidence Paper, 6, 10

[49] Perret, S. (2021)., *Why did other wealth taxes fail and is this time different?* Wealth Tax Commission Evidence Paper, 6 at 10.

[50] Perret, S. (2021). *Why did other wealth taxes fail and is this time different?* Wealth Tax Commission Evidence Paper, 6 at 10.

[51] OECD, The Role and Design of Net Wealth Taxes in the OECD, 23, *OECD Tax Policy Studies*, No. 26, OECD Publishing, Paris, (2018) at 70. https://doi.org/10.1787/9789264290303-en

"a broad-based capital income taxation – including the taxation of capital gains – combined with well-designed inheritance taxes may be a more efficient and less administratively costly way of addressing wealth inequality".[52]

8 Department's survey of other jurisdictions

To gain a better perspective on wealth taxes in other countries and wealth tax proposals in other states, we reached out to the following jurisdictions and asked them to complete a wealth tax questionnaire we created:

- The seven other U.S. states[53] that proposed wealth tax legislation or taxes targeted at high-income individuals in and around 2022.
- Eight countries that levy a wealth tax.
- 26 cantons in Switzerland that each administer the Swiss wealth tax at the cantonal level.

(*See* Appendix B for the wealth tax questionnaire questions). We received a total of twelve responses, of which five responses included in-depth answers to our questionnaire. The following jurisdictions that provided in-depth answers to our questionnaire are:

- Argentina, France, Spain, Swiss canton of Appenzell and Swiss canton of Nidwalden.

Below is a general summary of the responses we received. More information about the unique or jurisdiction-specific responses provided by the five in-depth responses can be found in Appendix C.

8.1 Summary of wealth tax questionnaire responses

1. **What is your biggest wealth tax administrative challenge?**

[52] OECD, The Role and Design of Net Wealth Taxes in the OECD, 23, *OECD Tax Policy Studies*, No. 26, OECD Publishing, Paris, (2018) at 70. https://doi.org/10.1787/9789264290303-en
[53] California, Connecticut, Hawaii, Illinois, Maryland, Minnesota, and New York.

Department of Revenue Washington State

Multiple jurisdictions responded stating their top administrative challenge for a wealth tax is determining the value of assets, particularly non-marketable assets.[54] In addition, multiple jurisdictions explained that administering the wealth tax on a regional basis is their greatest administrative challenge due to the complexity of administering the tax with valuation methodologies, thresholds, rates, and deductions that vary depending on the local jurisdiction's laws.

2. **What measures have you implemented to improve ease of administration?**

Nearly every respondent stated that electronic filing and/or electronic payment requirements have improved ease of administration. Some jurisdictions stated they utilize electronic returns that both auto-fills data from prior year returns and that auto-calculates the tax due for taxpayers. In addition, respondents also stated that standardizing valuation methodologies and valuing assets less frequently than annually has improved ease of administration.

3. **Are there any legal constraints or significant administrative challenges that caused you to structure the tax in a way that is unique or may appear less than ideal?**

There appeared to be no theme in the responses provided, likely due to the unique features of the legal framework in each country. One respondent, where the wealth tax is administered at the local government level, highlighted the challenge of simplifying tax administration when faced with the competing regional priorities of the local governments that administer the tax. Another respondent stated bank-client confidentiality laws are a legal obstacle for tax authorities. Another respondent stated that conflicting tax treatment of certain assets and differing exemption amounts in their wealth tax structure is a challenge to administer.

4. **What enforcement mechanisms do you use and find effective?**

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[54] For the purposes of this report, non-marketable asset means an asset that is not traded on major secondary markets. *See e.g.*, Schweizerische Steuerkonferenz, Wegleitung zur Bewertung von Wertpapieren ohne Kurswert für die Vermögenssteuer, Kreisschreiben Nr. 28 vom 28. August 2008 (updated December 12, 2022).

Each respondent highlighted a different enforcement mechanism they found effective. One respondent stated their system has the capability to review returns and taxpayer databases to flag accounts that may have undervalued assets. The respondent also stated they collect data from different agency systems and developed a "Risk Matrix" that contains indicators and filters by type of activity and sector, which is used to generate audit leads. Another respondent stated they increased their audit staff and set up specialized teams of auditors that each focus on an audit type, such as a centralized audit group that focuses on complex audits, inter-regional groups that focus on company directors, and local audit groups that do tax discovery. Two respondents highlighted the effectiveness of the legal obligation of taxpayers in their jurisdiction to declare all assets, whether taxable or not, annually. This allows tax authorities to compare a taxpayer's change in wealth year over year and helps validate their income.

5. **What is your biggest enforcement challenge?**

Nearly every respondent stated that tax evasion, such as concealment of assets that are either difficult to value or difficult for authorities to track, is their biggest enforcement challenge. Assets specifically mentioned include:

- Cash, gold, and other similar assets for which no explicit certificates exist.
- Assets held indirectly, through companies, or by individuals or legal entities established abroad.

6. **How do you identify and estimate the wealth of a taxpayer who does not file/pay wealth taxes?**

Most respondents stated they use third-party documents to estimate tax due for taxpayers who do not file wealth tax returns. Sources of information include:

- Bank records, property records, other taxpayer records, and financial records from other institutions.
- The Organization for Economic Co-operation and Development's (OECD) Automatic Exchange of Information on Financial Accounts (AEOI) through the Common Reporting Standard (CRS).

- Data mining and review of databases such as tax returns, income declared by third-parties, notarial deeds, declarations of the chain of ownership of properties when they are held by a legal entity, and bank accounts.

At least one jurisdiction highlighted a substantial penalty for failing to file as a deterrent for non-filing.

7. **What is your compliance rate?**

Over half of the respondents either did not provide a compliance rate or stated they did not know their compliance rate since the tax is self-assessed. The remaining respondents provided compliance rates varying between 82-98%. Note, these compliance rates are not directly comparable to a Washington state-level wealth tax as these jurisdictions have increased barriers to exit including emigration requirements and, in some cases, expatriation taxes.

8. **How do you plan to enforce wealth taxes against taxpayers who move out of your jurisdiction?**

Half of the respondents stated that taxpayers who move out of their jurisdiction must prove that they are no longer a resident of the jurisdiction by providing proof of tax registration in their new residence. Other respondents stated that they move forward with sending out reminders to taxpayers that their system has identified as potentially owing the tax and/or verifying residency and opening an audit. One respondent stated that they are unable to enforce against taxpayers who move abroad with tax debts unless they still have property in the jurisdiction.

9 Additional observations from non-U.S. jurisdictions

Another noticeable trend in non-U.S. jurisdictions with wealth taxes is the utilization of the AEOI developed by the OECD. The OECD published in 2012 that the:

> "AEOI is understood to involve the systematic and periodic transmission of 'bulk' taxpayer information by the source country to the residence country concerning various categories of income (dividends, interest, royalties, salaries, pensions, etc.). Automatic exchange can also be used to transmit other types of useful information such as changes of residence, the purchase or disposition of immovable property, value added tax refunds, etc. As a result, the tax authority of a

taxpayer's country of residence can check its tax records to verify that taxpayers have accurately reported their foreign source income. In addition, information concerning the acquisition of significant assets may be used to evaluate the net worth of an individual, to see if the reported income reasonably supports the transaction."[55]

Based on the responses to our questionnaire, this is a system that many countries are utilizing to help administer not only wealth taxes but also administer other taxes to increase compliance. The OECD has developed the CRS[56] as part of the AEOI, which was developed in response to a G20[57] request and approved by the OECD in 2014. The CRS sets out the financial account information to be exchanged, the financial institutions required to report, the different types of accounts and taxpayers covered, and due diligence procedures that financial institutions must follow. As of 2024, the U.S. does not participate in the AEOI.[58] Additionally, it's not clear if Washington state would be invited to participate in or receive information from the AEOI even if the U.S. were to participate in the future.

Administrative considerations

As part of this report, the department investigated what practices and tools would be required to administer a wealth tax. Specifically, the department evaluated new practices and tools we would likely need to build/acquire in order to effectively administer the tax

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[55] *See Automatic Exchange of Information: what it is, how it works, benefits, what remains to be done*, OECD, (2012). https://www.oecd-ilibrary.org/docserver/9789264216525-3-en.pdf?expires=1727395701&id=id&accname=guest&checksum=D25847BF25EFF4C089AFFDF665A354B4

[56] *OECD (2014), Standard for Automatic Exchange of Financial Account Information in Tax Matters,* OECD Publishing. *http://dx.doi.org/10.1787/9789264216525-en*

[57] "The G20 (Group of 20) is the premier forum for global economic co-operation. It brings together leaders and policymakers from the world's major economies to discuss key economic, development and social issues. G20 members represent around 80% of global GDP, 75% of global exports and 60% of the global population." *OECD and G20*. OECD. https://www.oecd.org/en/about/oecd-and-g20.html

[58] *See* Signatories of the multilateral competent authority agreement on automatic exchange of financial account information and intended first information exchange date. *(https://www.oecd.org/content/dam/oecd/en/topics/policy-issues/tax-transparency-and-international-co-operation/crs-mcaa-signatories.pdf) &* AEOI standard's implementation status by jurisdiction (https://web-archive.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/crs-by-jurisdiction/index.htm).

and what current practices and tools we already have in place that could be adapted to administer a wealth tax. Below is a summary of the findings.

10 New practices and tools

10.1 Valuation methods

One of the most important administrative considerations for the design and administration of a wealth tax is determining how wealth is valued. The valuation of assets is often cited as the most challenging aspect of administering a wealth tax and the complexity of valuations largely depends on the design of the tax including the assets subject to tax.[59] Interestingly, IRS data shows that "half of the wealth holdings of individuals with more than $5 million of net worth are held in 'publicly traded or readily valued' forms."[60] This would suggest that many of the assets held by high-net-worth persons should be easily valued based on the public market trading price.[61] Using this fair market value approach works well for these publicly traded assets but there are often assets that aren't easily valued using this approach and may require additional methods or rules, which are discussed in more detail below.

Although there are a multitude of valuation methods, a few are commonly observed and discussed regarding wealth taxes. Fair market value is the most predominant valuation method used by jurisdictions with a wealth tax and is the most prevalent method proposed by domestic jurisdictions in the United States. The most recent Washington wealth tax proposals used "fair market value" defined as "the amount of money that a willing buyer would pay to a willing seller for property in an arms-length transaction if both parties were fully informed about all advantages and disadvantages of the property and neither party is acting under a compulsion to enter into the transaction."[62]

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[59] *See* Daly et al. Valuation for the purposes of a wealth tax. *FISCAL STUDIES* (2021) *at* 615-616.

[60] Gamage, D., Glogower, A., & Kitty, R. (2021) *"How to Measure and Value Wealth for a Federal Wealth Tax Reform*", *Articles by Maurer Faculty. 2967* at 6. (author's calculations based on IRS, Personal Wealth 2013: Top Wealth Holders, Type of Property by Size of Net Worth, January 2018, https://www.irs.gov/statistics/soi-tax-stats-all-top-wealthholders-by-size-of-net-worth).

[61] Gamage et al. (2021). *"How to Measure and Value Wealth for a Federal Wealth Tax Reform". Articles by Maurer Faculty. 2967* at 6.

[62] Section 2(6) of SB 5486 (2024) and HB 1473 (2024).

Aside from fair market value, one of the most prevalent valuation concepts is that of an open market value. An open market value is defined as, “the price which an asset would fetch as between a willing buyer and willing seller in a market open to all comers.”[63] The open market value measure is regarded as one of the most effective at assigning a cash value to assets traded on a secondary market. [64] Generally, this method of valuation does work well for certain assets such as commodities, savings, and securities, as they can easily be converted to cash. However, there are drawbacks with an open market value approach. Even a well-established market, such as a stock exchange, would be subject to price fluctuations depending on the quantity of stock that was being bought or sold at a given time.[65] For example, stocks and futures contracts as a lump sum may be publicly valued at a certain dollar amount, but the price a buyer would be willing to pay will fluctuate based on the total of such assets being bought or listed on the open market. Determining the value of stock, shares, futures contracts, and private business ownership interests using the open market value method can also be problematic because it relies on hypothetical assumptions about the market.[66]

While distinct from each other, “fair market value” and “open market value” share many things in common. Both these valuation concepts highlight that the value of assets subject to a wealth tax should be based on what a buyer and seller are willing to accept. The OECD also agrees with this position and states, “assets should ideally be assessed at their market value, defined as the price at which an asset would be traded in a competitive market.”[67] Experts also make a similar point by stating, “the general principle guiding valuations should be that all assets should be assessed at their prevailing market value.”[68]

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[63] *See* Sandford, C., & Morrissey, O. (1985*). The Irish Wealth Tax: A Case Study in Economics and Politics*. The Economic and Social Research Institute, Paper 123 at 95.
[64] *See* Sandford, C., & Morrissey, O. (1985). *The Irish Wealth Tax: A Case Study in Economics and Politics*. The Economic and Social Research Institute*, Paper,* 123.
[65] *See* Sandford, C., & Morrissey, O. (1985). *The Irish Wealth Tax: A Case Study in Economics and Politics*. The Economic and Social Research Institute, Paper 123.
[66] *See* Daly, S., Loutzenhiser, G., & Hughson, H., *Valuation for the purposes of a wealth tax*. FISCAL STUDIES.
[67] *See* Daly, S., Loutzenhiser, G., & Hughson, H., *Valuation for the purposes of a wealth tax*. FISCAL STUDIES at 3 (*citing* OECD, The Role and Design of Net Wealth Taxes in the OECD, 23*, OECD Tax Policy Studies*, No. 26, OECD Publishing, Paris, (2018) at 85 https://doi.org/10.1787/9789264290303-en).
[68] Saez, E., & Zucman, G. (2019). Progressive wealth taxation. *Brookings Papers on Economic Activity*, Fall, 437–533 at 482. https://doi.org/10.1353/eca.2019.0017

While the valuation of publicly traded assets can often be relatively straightforward, the valuation of non-marketable assets is complex, ripe for dispute, and often costly. These non-marketable assets may be items that are infrequently traded such as art, privately held business interests, personal property, and pension rights.[69] Because these assets are often difficult to value, they have been exempted from some wealth taxes. However, these types of exemptions, which are often labeled "hard-to-value" exemptions, can shrink the tax base, impact the selection of savings options, and create opportunities for tax avoidance.[70]

While it did not categorically exempt non-marketable assets, Washington's most recent wealth tax proposals[71] exempted many of these hard-to-value assets such as trademarks, trade names, brand names, patents, copyrights, trade secrets, licenses, permits, core deposits of financial institutions, noncompete agreements, customer lists, patient lists, favorable contracts, favorable financing agreements, reputation, exceptional management, prestige, good name, integrity of a business, private nongovernmental personal service contracts, and private nongovernmental athletic or sports franchises or agreements.[72] Excluding these assets may be the best option to address the valuation feasibility concerns, as other alternatives are complicated and may not be administrable in Washington.[73]

In addition to fair market and open market value, there are some alternative valuation methodologies that are proposed by both experts and the OECD. Importantly, these methods are generally reserved for situations in which it is not easy to determine an asset's fair market or open market value. In preparing this report, the department commissioned the translation of two documents from the Swiss Tax Authority that went into detail regarding the valuations of securities without a market value and which

[69] *Perret, S., (2021). Why did other wealth taxes fail and is this time different? Wealth Tax Commission Evidence Paper,* 6 at *18.*
[70] Perret, S., (2021). Why did other wealth taxes fail and is this time different? Wealth Tax Commission Evidence Paper, 6 at 18.
[71] SB 5486 (2024) and HB 1473 (2024).
[72] Section 2(9) of SB 5486 (2024) and HB 1473 (2024) (defining non-financial intangible assets which would have been exempt from the proposed tax).
[73] Discussed further below.

highlighted the complexity of administering a formulaic valuation method system.[74] The formulaic approach Switzerland uses depends on the type of property, such as companies, incorporated companies, limited liability companies, co-operatives, and many other different structures.

Examples of formulaic valuation methods include using insured values for assets that are non-marketable, especially for assets with a robust insurance market such as artwork. [75] Assets must have an insurance value associated with them for this method to be applicable and whether they are insured may depend on the value of the asset itself. As a result, this approach could miss out on relatively low value items or items for which no insurance market exists, such as inherently risky investment assets or dangerous items.

Formulaic methods can also be especially useful in the case of assets associated with revenue streams, such as privately held businesses. One formulaic approach is to look at a business's book value. The business's book value could be adjusted by a weighted average of its "earnings value," as is done in Switzerland[76] and was proposed in California's wealth tax proposal.[77] California's proposal took the book value and multiplied it by 7.5 times the business's annual profits, calculated in accordance with generally accepted accounting principles. However, this method can lead to undervaluation of private businesses, as the value of private businesses isn't always entirely captured by using its book value. [78] Book value wouldn't account for a private business's "workforce or future prospects, and there are many assets for which book value is substantially less than

[74] Schweizerische Steuerkonferenz, Wegleitung zur Bewertung von Wertpapieren ohne Kurswert für die Vermögenssteuer, Kreisschreiben Nr. 28 vom 28. August 2008 (updated December 12, 2022) & Schweizerische Steuerkonferenz, Wegleitung zur Bewertung von Wertpapieren ohne Kurswert für die Vermögenssteuer, Kreisschreiben Nr. 28 vom 28. August 2008, Kommentar 2023 (2022).

[75] *See* OECD, The Role and Design of Net Wealth Taxes in the OECD, 23, *OECD Tax Policy Studies*, No. 26, OECD Publishing, Paris, (2018) at 69. https://doi.org/10.1787/9789264290303-en (citing McDonnell, T.A. (2013), "*Wealth Tax: Options for its Implementation in the Republic of Ireland*", NERI Working Paper Series, WP 2013/6.)

[76] *See e.g.,* Schweizerische Steuerkonferenz, Wegleitung zur Bewertung von Wertpapieren ohne Kurswert für die Vermögenssteuer, Kreisschreiben Nr. 28 vom 28. August 2008 (updated December 12, 2022).

[77] *See* Assembly Bill 259 (2023-2024), *Wealth Tax: False Claims Act*. (2023, January 19). https://legiscan.com/CA/text/AB259/id/2653091.

[78] *See* Assembly Bill 259 (2023-2024), *Wealth Tax: False Claims Act*. (2023, January 19). https://legiscan.com/CA/text/AB259/id/2653091.

what the assets would fetch in a sale." [79] In this case, it might be necessary to multiply the book value by another factor to accurately reflect the market value of that private business. [80] It's not clear how much effort it would take to implement such an approach in Washington because these would mostly be novel and untested approaches to valuation.[81]

It is worth noting that the department's estate tax unit does rely on some of these formulaic valuation methods, such as book value, in determining estate tax liability, but those methods are explicitly performed through third party certified appraisals. The department does not have specific experience in performing these valuation methods. If formulaic valuation methods are utilized in administering a wealth tax in Washington, there would likely be associated administrative costs because the department would need to hire specific staff with the technical skills to understand and audit such valuations.

Valuation methods comparison

The following is a list of common valuation methods along with general pros and cons associated with each method.[82]

1. Open Market Value

- Definition: The price an asset would sell for on the open market.
- Application: Often used for liquid assets like stocks, bonds, and real estate.
- Pros: Reflects current economic conditions; relatively straightforward for publicly traded assets.
- Cons:
    - Market values can fluctuate significantly, leading to variability in tax assessments.
    - Difficult to use when a market does not exist for a particular asset, parties are not at arm's length, or the market has few transactions.

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[79] Gamage et al. (2021). "How to Measure and Value Wealth for a Federal Wealth Tax Reform". Articles by Maurer Faculty. 2967 at 14.
[80] Gamage et al. (2021). "How to Measure and Value Wealth for a Federal Wealth Tax Reform". Articles by Maurer Faculty. 2967 at 14-15.
[81] Any formulaic approach used in Washington state must result in the true and fair value of the property to not run afoul of the Uniformity Clause in the Washington state constitution.
[82] This is not designed to be an exhaustive assessment of each valuation method. Many of the benefits and drawbacks of a valuation method depend on the asset being valued.

- Valuation can be manipulated through fragmentation. Fragmentation in this context is when a person fragments their ownership to reduce the tax base. This technique can be used when a bundle of assets are worth more than the cumulative of the components—for example, a business with significant goodwill and the business itself is worth more than the balance sheet value of its other assets. In this case, anti-fragmentation rules may be necessary, such as requiring that assets be valued with respect to related property.[83]

As recently as 2018, the OECD took the position that assets should ideally be valued at their market value, defined as the price at which an asset would be traded in a competitive market.[84]

2. Fair Market Value

- Definition: The estimated price an asset would sell for in a fair sale between a willing buyer and seller. Must be an arm's length transaction meaning that the transaction is conducted between unrelated parties where the price is not affected by any special relationship between the buyer and seller.
- Application: Widely used for real estate, collectibles, and personal property.
- Pros: More accurate than book value for unique or less liquid assets. Fairly simple as no complex formulas or calculations are required.
- Cons:
    - Can require appraisals, which can be subjective and costly particularly for certain assets subject to a wealth tax such as art.
    - Market volatility can significantly impact fluctuations in asset value over time.
    - Subjective factors such as brand perception can influence the fair market value.

3. Book Value

- Definition: The value of an asset as recorded on a company's balance sheet, calculated as the original purchase cost minus depreciation.
- Application: Commonly used for business assets and personal property.

[83] Daly, S., Loutzenhiser, G., & Hughson, H., Valuation for the purposes of a wealth tax. FISCAL STUDIES at 6.
[84] OECD, The Role and Design of Net Wealth Taxes in the OECD, 23, *OECD Tax Policy Studies*, No. 26, OECD Publishing, Paris, (2018) at 85. https://doi.org/10.1787/9789264290303-en

- Pros: Provides a stable and consistent valuation basis.
- Cons: May not reflect the true market value, especially for older assets. More difficult to administer.

4. Replacement Cost

- Definition: The cost to replace an asset with a similar one at current prices.
- Application: Often used for insurance purposes and occasionally for real estate or business assets.
- Pros: Reflects current cost trends.
- Cons:
  - Can overstate value, especially for assets that have depreciated.
  - May not be accurate when no true or substantially similar replacement asset exists.

5. Income-Based Valuation

- Definition: Valuation based on the present value of expected future income from an asset.
- Discounted Cash Flow: Projects future cash flows and discounts them back to present value.
- Capitalization of Earnings: Uses current earnings and a capitalization rate to estimate value.
- Application: Commonly used for businesses and rental properties.
- Pros: Reflects earning potential and profitability.
- Cons: Sensitive to assumptions about future income and discount rates.

6. Net Asset Value

- Definition: The total value of a company's assets minus its liabilities.
- Application: Often used for investment funds and holding companies.
- Pros: Provides a snapshot of a company's financial health.
- Cons: Can be misleading if assets are not accurately valued or if liabilities are under or overstated.

7. Comparative Market Analysis

- Definition: Valuation method based on comparing similar assets that have recently sold.
- Application: Commonly used for real estate and unique assets like art or antiques.
- Pros: Reflects current market trends and demand.
- Cons: Requires a good set of comparable sales, which may not always be available.

8. Intrinsic Value

- Definition: The perceived or calculated value of an asset based on underlying fundamentals.
- Application: Often used for stocks and investment analysis.
- Pros: Focuses on fundamental factors rather than market fluctuations.
- Cons: Highly subjective and reliant on assumptions about growth and risk.

11 Current practices and tools

As part of this report, the department evaluated the current practices and tools we utilize to administer current law taxes and programs and have broken them out into two categories, "easily adapted" and "adapted with difficulty." Easily adapted means we can likely adapt these practices and tools with only minor changes and increased resources to handle the workload. In other words, we can adapt these practices and tools to administering a wealth tax with minimal resource intensive retooling or process development. Adapted with difficulty means these practices or tools would need significant resources dedicated to adapting them to be used in the administration of a wealth tax. Adapted with difficulty also means adapting a practice or tool to the wealth tax may face some structural issues, such as legal hurdles or a general lack of expertise amongst the department's current staff.[85] Importantly, "easily adapted" does not necessarily mean easy to implement as some practices and tools can be easily adapted but also be very labor intensive, time intensive, and costly for the department to undertake.

11.1 Easily adapted

a) General audits

Many of the audit practices the department uses while auditing a Washington estate tax return may be useful for and easily adapted to auditing wealth tax returns. The current

[85] It's possible that some practices and tools included in the "adapted with difficulty" category may not be possible due to legal hurdles and/or insurmountable information gaps.

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statutory requirement to file Washington's estate tax return requires taxpayers to detail their assets.[86] A wealth tax return could be set up in a similar fashion requiring taxpayers to include a detailed list of their assets along with the return. The wealth tax return could also benefit from including a requirement that taxpayers include copies of the federal tax returns they filed from the tax year along with supporting documentation that can be used to verify the value of their assets, similar to the process for filing an estate tax return. It's important to note that while some auditing practices may be applicable to both a wealth tax and an estate tax, they are not directly comparable because the estate tax is not a recurrent tax, and the department cannot rely on federal tax information for verification purposes.

In prior wealth tax proposals, the department has been required to audit a certain percentage of all filings. [87] While this could be accomplished, the department prefers that the number of audits conducted be up to the department's discretion in order to maximize resources. Notably, as the percentage of audited returns increases, the overall cost to audit wealth tax returns will likely also increase.

b) Residency audits

While the department could utilize its current residency audit practices such as in the case of the Washington capital gains tax and the use tax, additional staffing and training would be required to handle the increased workload associated with administering wealth tax residency audits. All states outline residency requirements for tax purposes, and a few, such as California, Connecticut, New Jersey, and New York, have dedicated residency audit teams.[88]

Another important consideration is how to handle substantiating that a former state resident is no longer a resident of the state. Once a taxpayer has established residence in a different state, the burden of proof should fall on that taxpayer to provide sufficient documentation that they are no longer a resident of a state in which they previously resided. This means that taxpayers moving out of state must prove that they are no longer

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[86] Washington State Estate and Transfer Tax Return, page 4. https://dor.wa.gov/sites/default/files/2022-02/85_0050e.pdf

[87] *See* Section 11 of SB 5486 (2024) and HB 1473 (2024).

[88] See HBK CPAs & Consultants, *"State Residency Audits: How to Best Prepare Yourself for the Audit Process!"*, (2021).

residents of that state. While it may be relatively easy to adapt the department's current practices to conducting wealth tax residency audits, the audits themselves can be labor and time intensive.[89]

c) Washington capital gains tax information and practices

The department may be able to leverage information and practices associated with administering the Washington capital gains tax to aid in the administration of a wealth tax. The Washington capital gains tax is a 7% tax on the sale or exchange of long-term capital assets such as stocks, bonds, business interests, or other investments and tangible assets.[90] The tax only applies to individuals, similar to the most recent Washington wealth tax proposals.[91] The department has been administering this tax for two years as of the publication of this report. Although the Washington capital gains tax is still relatively new from an administrative perspective, there are helpful lessons that could provide insight into administering a wealth tax in Washington.

The voluntary compliance rate for the Washington capital gains tax could help predict a wealth tax compliance rate, as there may be an overlap between individuals subject to a wealth tax who would also owe the Washington capital gains tax each year. However, with a wealth tax, an individual is taxed regardless of any transaction occurring whereas the Washington capital gains tax is only triggered if there is a sale or exchange of an asset subject to the tax. Additionally, the behavioral responses that would impact the compliance rate are significantly different between the two taxes as the tax liability for a wealth tax may be much higher, which could lead to more extreme behavioral responses. The capital gains tax in Washington is also a recent tax and the data is limited.

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[89] See e.g., State of New York Department of Taxation and Finance, Nonresident Audit Guidelines (December 2021), pgs. 66-77. https://www.tax.ny.gov/pdf/2021/misc/nonresident-audit-guidelines-2021.pdf (New York auditors will visit neighborhoods and talking with neighbors, and looking at various records such as personal diaries, telephone record, flight itineraries, toll receipts); see also Idaho State Tax Commission Residency Audit Manual - Individual Income Tax (June 2020).

[90] *See* RCW 82.87.400. https://app.leg.wa.gov/RCW/default.aspx?cite=82.87.040

[91] SB 5486 (2024) and HB 1473 (2024).

The overlap between these two taxes could be a helpful administrative tool to ensure compliance and increase enforcement for both taxes.[92] However, Washington would likely be unable to rely on the federal income tax for administrative and compliance purposes with a wealth, as it does with the Washington capital gains tax. While federal income tax information gained through administration of the Washington capital gains tax could help identify potential taxpayers and some of the assets these individuals own, it would be insufficient to identify all potential taxpayers or all of the applicable assets those potential taxpayers own. This is because no federal wealth tax currently exists.

Finally, the Washington capital gains tax benefits from the fact that a majority of states also tax the sale or exchange of capital assets. This allows states to learn from each other and build best practices over decades of experience. With no wealth tax at the federal level and no clear wealth tax parity amongst the states, the department's wealth tax administration might not have the same efficiencies seen in implementing the Washington capital gains tax.

11.2 Adapted With difficulty

a) Valuation methods

Creating guidance on and implementing new valuation methods would be difficult for the department to administer. Many of the valuation methods that are discussed above would likely be administrable for the department but would require advanced training, increased staff, and other resources that the department does not currently possess.

Except for the fair market and open market valuation methods, the department would need to gain experience in any new valuation methods adopted. Although estate tax includes all real and personal property, which would include all assets taxed under the most recent Washington wealth tax proposals,[93] the fair market value method is still the primary prescribed method for the estate tax. Accordingly, the department has little experience with other valuation methods such as book value, replacement cost, income-based valuation, net asset value, comparative market analysis, intrinsic value, or any formulaic valuation methods. Staff would need to be trained on these valuation methods including

[92] It's important to keep in mind that the exemption thresholds for these two taxes are drastically different as the capital gains tax standard deduction as of 2024 is only $262,000 whereas the recent proposed wealth tax has an exemption threshold of $250,000,000.
[93] SB 5486 (2024) and HB 1473 (2024).

third party training or consultations to build competency in applying these methods. This is one of the perceived contributing factors for other jurisdictions abandoning their wealth taxes.[94]

b) Enforcement tools

Many of the current enforcement tools that the department uses while administering other taxes may be difficult to adapt to wealth tax enforcement. The department's vision is to "achieve the highest level of voluntary compliance by being the trusted leader in tax administration and public service."[95] Before moving into advanced collections, the department focuses on educating taxpayers on their reporting requirements, as well as their rights, to achieve the vision of voluntary compliance. However, to protect the state's interest, in some cases it's necessary to issue a tax warrant, also referred to as a tax lien. This is an enforcement tool that assists the department in collecting on any unpaid fees, tax, and penalties. Under current law, the department is permitted to issue a tax warrant after 15 days any fee, tax, or penalty is not paid.[96] Tax warrants can be issued sooner (referred to as a "jeopardy warrant") if the department believes that a taxpayer is about to cease business, leave the state, or remove or dissipate assets that may cover the fees, taxes, or penalties due. If a tax warrant remains unpaid, it's generally filed in the superior court in the county where the taxpayer is located.

After a tax warrant is filed, it becomes enforceable. The department can seize real and/or personal property to raise funds to pay back the original debt for which a tax warrant was filed. In the case of a wealth tax, if real and/or personal property is located outside of the state, the department would likely not have any legal enforcement authority to seize the property.

Another enforcement mechanism employed by the department is a notice and order to withhold and deliver (NOWD) property due to or owned by a taxpayer. In these situations, the department sends an NOWD to financial institutions to seize assets in order to pay off

[94] OECD, The Role and Design of Net Wealth Taxes in the OECD, 23, *OECD Tax Policy Studies*, No. 26, OECD Publishing, Paris, (2018) at 16. https://doi.org/10.1787/9789264290303-en
[95] See Department of Revenue, *Annual Report* (July 2022 – June 2023). https://dor.wa.gov/sites/default/files/2024-03/AnnualReport2023.pdf
[96] See RCW 82.32.210 and 220. https://app.leg.wa.gov/rcw/default.aspx?cite=82.32.210 & https://app.leg.wa.gov/rcw/default.aspx?cite=82.32.220

or pay a portion of a tax warrant.[97] Any entity served by this order must respond within 20 days and submit any property owned by the debtor listed on the tax warrant. Failure to comply with this request allows the department to bring a proceeding in the superior court of Thurston County or any county in which service of the notice was made to enforce to the NOWD.

Attempting to use NOWDs for assets with no situs in Washington may be problematic. The financial institution that is served with this order may have no obligation to comply, especially if they are located outside of the United States. Currently, financial institutions that accept deposits in Washington generally must comply with this requirement, and it's feasible to bring forward a proceeding if they do not. In the case of a financial institution with no presence in Washington, it may be difficult to compel them to comply by bringing forward a proceeding at the county level.[98] This would make it challenging to seize financial assets with no situs in Washington. It would presumably be even more difficult and costly, if not impossible, for the department to attempt collections on tangible or intangible financial assets or personal property held outside of the United States.

11.3 Individual income tax returns

Generally, the department has very little information about the income, asset composition, and financial activities of individuals. The imposition of the Washington capital gains tax has increased the amount of information we receive regarding individuals, but the Washington capital gains tax is limited to sales or exchanges of certain capital assets and not necessarily owed annually for all individuals.[99] Also, because Washington does not have an individual income tax, it cannot rely on state income tax filings to identify non-filers or misreporting.

[97] See RCW 82.32.235 (3)(a). https://app.leg.wa.gov/rcw/default.aspx?cite=82.32.235
[98] See RCW 82.32.235 (6). https://app.leg.wa.gov/rcw/default.aspx?cite=82.32.235
[99] As of the publishing of this report, there is an initiative on the November 2024 ballot to repeal the Washington capital gains tax, Initiative 2109 (2024).

Best practices

In addition to identifying administrative considerations, the department has identified several best practices that should be considered in the development of a wealth tax in Washington.

11.4 Valuations

Valuations should be based on a methodology that is relatively easy to perform, simple to verify, and achieves consistent results. In general, valuation methods should be simple but not so simple that they lead to unfairness in certain cases.[100] The choice of a valuation method can depend on the type of asset, available data, and legal requirements for a particular jurisdiction. Each method has its strengths and weaknesses. To combat this, some tax administrators use a combination of methods to ensure a fair and accurate assessment of wealth for tax purposes as observed in the Swiss cantons that rely on a combination of different methods depending on the type of asset.[101] With that said, fair market value seems to be the most reasonable valuation method for a wealth tax in Washington, as it is likely the best option legally[102] and administratively.[103]

Regardless, the valuation method(s) used in a wealth tax should be explicitly prescribed by statute or established by the department through the rulemaking process, subject to guidelines provided by the Legislature. For many intangible assets, determining fair market value at any given time is a relatively straightforward process, such as in the case of publicly traded stocks, bonds, annuities, mutual funds, index funds, and other financial intangible assets. As many of these assets are publicly traded, their value could be obtained using public information and other third-party tools. Because many of these assets fluctuate in value daily, hourly, and even by the minute, appropriate detail should be provided for determining when to value an asset if the chosen valuation method is

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[100] OECD, The Role and Design of Net Wealth Taxes in the OECD, 23, *OECD Tax Policy Studies*, No. 26, OECD Publishing, Paris, (2018) at 86. https://doi.org/10.1787/9789264290303-en

[101] *See generally* Schweizerische Steuerkonferenz, Wegleitung zur Bewertung von Wertpapieren ohne Kurswert für die Vermögenssteuer, Kreisschreiben Nr. 28 vom 28. August 2008 (updated December 12, 2022)

[102] The valuation method(s) used to value property in Washington must reflect the true and fair value of property to not run afoul of the Uniformity Clause in the Washington State Constitution.

[103] Washington's most recent wealth tax proposals value assets subject to the wealth tax based on the fair market value.

based on value at a snapshot in time, e.g., December 31st of each taxable year. [104] This is particularly important when markets can open and close at different times of the day or trading may be paused altogether during the valuation period.

Administratively, the fair market value method would be the most efficient valuation method for the department to employ. The department currently administers taxes that require the use of fair market value. For example, the estate tax, use tax, and in most instances property tax, utilize fair market value method. In these cases, the department has established policies, procedures, and data sources that aid the department in finding the true fair market value. Although the department would need to value new asset types for a wealth tax, the department's familiarity with this method would create an efficient transition without the need for administering a completely different valuation method. Not only would this be simpler for staff, but also for taxpayers required to provide values for their assets. Despite this, it's worth noting that while the valuation methods for estate, property tax, and use tax might be useful for a wealth tax, there are some information gaps in a wealth tax that will make this determination more difficult.

While certainly not impossible, valuing non-marketable assets is more difficult than valuing assets tradable on the open market. The department suggests that the best approach for addressing the valuation of non-marketable assets might be to require that taxpayers provide certified third-party appraisals for those assets. Depending on how often appraisals are required to determine the fair market value of assets, these could be an effective tool for the department to ensure an accurate value. However, it's important to acknowledge that these appraisals can be costly and time consuming to undertake, both of which place a substantial burden on the taxpayer. While there are a few ways to mitigate these challenges, including not requiring appraisals every year and comparing values year-to-year, such measures may not be feasible for all assets. This is particularly true in the case of assets that fluctuate in value significantly.

In the case of privately held businesses, information from the private company's federal income tax return and valuations from financial statements could help determine the fair market value. However, in the department's experience, these valuation methods can lead

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[104] This approach was taken in SB 5486 (2024) and HB 1473 (2024); *see also* Gamage et al. (2021). *"How to Measure and Value Wealth for a Federal Wealth Tax Reform*". Articles by Maurer Faculty. 2967 at 7-8.

to disputes and can be costly for businesses to comply with on a recurring basis. Further complicating the issue is the fact that some shareholders of a privately held business (especially businesses outside Washington or the United States) may find it difficult to acquire the necessary records to perform these valuations. Experts suggest that certain large businesses should be required to submit certified appraisals based on a threshold determined by their adjusted book value, which may be a way to mitigate this compliance burden.[105] Requiring appraisals for certain private businesses may also be an option, but this approach needs to be equitable for all businesses.

Regardless of the valuation method chosen, a wealth tax proposal would also need to specify the time and date these assets would need to be valued such as close of the market on December 31st of each taxable year.

11.5 Enforcement approach

The enforcement of all taxes relies on a variety of different principles. Auditing returns is a primary enforcement tool that can increase compliance. The audit process is efficient, fair and effective. However, this process doesn't always capture those who are engaging in tax avoidance and not filing returns.

The department may have to invest more heavily in nontraditional channels for information, such as datamining third-party databases, news articles, and other publicly available information to generate leads for enforcement purposes. However, this would only be the first step in a long process, as it's crucial that this information be confirmed to be accurate before any inquiries or enforcement action is taken. In particular, determining domicile and/or residency would be a key element of administering the wealth tax. Relying on only publicly available information to determine domicile or residency may not be sufficient. Additional verification by staff may be necessary to avoid undue hardship on persons with no tax obligation.

The academic research around wealth taxes does provide some insight into how enforcement can be maximized. It suggests that comprehensive information reporting and

[105] Gamage et al. (2021). "How to Measure and Value Wealth for a Federal Wealth Tax Reform". *Articles by Maurer Faculty*. 2967 at 15.

prepopulated returns are critical to maximizing tax compliance.[106] The literature in this area suggests that compliance is high when income is reported by third parties and low when it's self-reported.[107] However, relying on third-party reporting would stand in opposition to the way Washington administers its taxes and the way most jurisdictions with a wealth tax administer their tax. Washington relies on voluntary compliance when administering taxes. Most of the European wealth taxes are also based on self-reported information, as opposed to most income taxes relying on the use of information from financial institutions, employers, and other payors.[108] Administering a wealth tax as a third party reported tax would be a major change for the department and would likely present challenges in its first few years.

Simple and efficient return filings are key to higher voluntary compliance rates and make a tax easier for the department to administer. Importantly, a return can only be as simple as the underlying tax. Complexity increases the likelihood of misreporting and may lead to increased noncompliance. Experts emphasize that prepopulated returns are critical to maximizing tax compliance.[109] Washington already uses a taxpayer's previous reporting history to prepopulate tax returns in some cases. For example, a taxpayer reporting under a certain business and occupation tax classification will already have that information prefilled when they file a future return. In the case of a wealth tax return, if a taxpayer reported certain types of assets such as stocks on a previous return, those could already be prefilled. The person may have to adjust this information as their circumstances change, but, on the whole, such a practice could help increase compliance and convenience. Additionally, if a taxpayer were to be audited, prior year returns could be compared as an enforcement tool.

The department's approach when it comes to implementing new taxes generally has been a balanced approach focused on education and voluntary compliance on the front end and

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[106] Saez, E., & Zucman, G., (2022). *"Wealth Taxation: Lessons from History and Recent Developments"*, AEA Papers and Proceedings, American Economic Association, vol. 112, pages 58-62, May at 67.

[107] Kleven, H. J., Knudsen, M. B., Kreiner, C. T., Pedersen, S., & Saez, E., (2010). "Unwilling or Unable to Cheat? Evidence from a Randomized Tax Audit Experiment in Denmark," NBER Working Papers 15769, National Bureau of Economic Research, Inc at 63.

[108] *Saez*, E., & *Zucman,* G., (2022). *"Wealth Taxation: Lessons from History and Recent Developments," AEA Papers and Proceedings, American Economic Association, vol. 112, pages 58-62, May* at 61.

[109] Saez, E., & Zucman, G., (2022). "*Wealth Taxation: Lessons from History and Recent Developments*," AEA Papers and Proceedings, American Economic Association, vol. 112, page 61, May at 67.

reasonable enforcement thereafter. This balanced approach allows taxpayers to familiarize themselves with how the tax should be reported and allows the department to work through issues that may arise when a new tax is first implemented. Focusing on education and voluntary compliance has always been a key principle of the agency.

a) Include a high exemption threshold

To mitigate liquidity issues, some academics suggest narrowing wealth taxes to only apply to high-net-worth persons. [110] One way this can be achieved is by establishing a high exemption threshold. [111] Previous wealth taxes in Europe had low exemption thresholds which caused liquidity issues for those that were moderately wealthy and didn't have many liquid assets. [112] Higher tax exemption thresholds could result in additional benefits including; increased equity as only those with a higher ability to pay would be subject to the tax; and reduced administrative burden due to lowering the taxpayer count.[113]

However, high exemption thresholds don't come without their downsides, as high thresholds could create more opportunities for aggressive tax planning, such as asset splitting[114], and make the wealth tax revenues more sensitive to behavioral responses and migration. [115]

b) Residency based taxation and expatriation tax provisions

One of the major hurdles to consistent and reliable wealth tax collections is the mobility of intangible assets and the mobility of people.[116] While there is some debate around

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[110] Saez, E., & Zucman, G., (2019). Progressive wealth taxation. *Brookings Papers on Economic Activity*, Fall, 437–533 at 479. https://doi.org/10.1353/eca.2019.0017
[111] Perret, S., (2021). Why did other wealth taxes fail and is this time different? Wealth Tax Commission Evidence Paper, 6 at 15.
[112] Saez, E., & Zucman, G., (2019). Progressive wealth taxation. *Brookings Papers on Economic Activity*, Fall, 437–533 at 440. https://doi.org/10.1353/eca.2019.0017
[113] Perret, S., (2021). Why did other wealth taxes fail and is this time different? Wealth Tax Commission Evidence Paper, 6 at 23 (citing Bastani, S., and Waldenström, D. (2020a). How Should Capital Be Taxed? Journal of Economic Surveys, 34(4): 812–846).
[114] Perret, S., (2021). Why did other wealth taxes fail and is this time different? Wealth Tax Commission Evidence Paper, 6 at 23 (citing Chamberlain, E. (2020). Defining the tax base – design issues. Wealth Tax Commission Evidence Paper, 8 supra note 99.
[115] Perret, S., (2021). Why did other wealth taxes fail and is this time different? Wealth Tax Commission Evidence Paper, 6 at 23.
[116] Perret, S., (2021). Why did other wealth taxes fail and is this time different? Wealth Tax Commission Evidence Paper, 6 at 13.

migration rates of high earners in response to tax increases,[117] there is evidence that other countries with wealth taxes have struggled with this concern. [118] particularly, when there are significant effective tax rate differentials with other countries or regions. This is compounded when the disparities exist at the regional level instead of the national level, making migration an easier option for tax exiles.

To combat these mobility concerns, the research surveyed suggests the jurisdiction include a "tail" feature in their wealth tax. A "tail" is a mechanism whereby a wealth tax is imposed for a minimum number of years after someone leaves the jurisdiction.[119] California lawmakers considered such an approach in Assembly Bill 259 (2023) and Assembly Bill 2088 (2020), which included special apportionment rules based on the number of years a person lived in the state in the form of a phase-in and phase-out of the tax.[120] The department has investigated this mechanism and believes there is litigation risk that it would run afoul of the Washington State Constitution's uniformity clause and possibly the United States Constitution's nexus requirements for state taxes.[121]

Another option considered by jurisdictions to mitigate revenue loss from tax exiles is for the jurisdiction to impose an expatriation or exit tax. [122] While countries can, and

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[117] See Cristobal Young, The Myth of Millionaire Tax Flight How Place Still Matters for the Rich; Kleven, Henrik, Camille Landais, Mathilde Muñoz, and Stefanie Stantcheva (2020) "Taxation and Migration: Evidence and Policy Implications." Journal of Economic Perspectives; & Galle, B. D., Gamage, D., & Shanske, D. (2024). Money moves: Taxing the wealthy at the state level. *California Law Review*, 112, Forthcoming. Georgetown University Law Center Research Paper No. 2023/26.; & Brülhart, M. et al., (2022). Behavioral responses to wealth taxes: Evidence from Switzerland. American Economic Journal: Economic Policy, 14(4), 111–150.

[118] See Cristobal Young, The Myth of Millionaire Tax Flight How Place Still Matters for the Rich; Kleven, Henrik, Camille Landais, Mathilde Muñoz, and Stefanie Stantcheva (2020) "Taxation and Migration: Evidence and Policy Implications." Journal of Economic Perspectives; & Galle et al. (2024). Money moves: Taxing the wealthy at the state level. *California Law Review*, 112, Forthcoming. Georgetown University Law Center Research Paper No. 2023/26.; & Brülhart, M. et al., (2022). Behavioral responses to wealth taxes: Evidence from Switzerland. American Economic Journal: Economic Policy, 14(4), 111–150.

[119] Chamberlain, E. (2020). Defining the tax base – design issues. Wealth Tax Commission Evidence Paper, 8, at 20-23.

[120] Discussed more above in the wealth taxes and wealth tax proposals around the world section.

[121] *See* generally article VII, section 1 of the Washington state constitution and *National Bellas Hess v. Department of Revenue,* 386 U.S. 753 (1967) & *Tyler Pipe v. Wash. Department of Revenue*, 483 U.S. 232 (1987) & Quill Corp. v. North Dakota, 504 U.S. 298 (1992).

[122] *See* generally article VII, section 1 of the Washington state constitution and *National Bellas Hess v. Department of Revenue,* 386 U.S. 753 (1967) & *Tyler Pipe v. Wash. Department of Revenue*, 483 U.S. 232 (1987) & Quill Corp. v. North Dakota, 504 U.S. 298 (1992).

sometimes do, impose these taxes, it's not clear that Washington could legally impose such a tax.

Other considerations

12 Legal limitations in Washington

a) Net wealth tax is likely not uniform

Many wealth taxes take the form of a "net" wealth tax, whereby taxpayers are able to deduct liabilities from the value of the assets they own. However, allowing liabilities to be deductible, and thus levying a "net" wealth tax, raises Uniformity Clause concerns. As noted earlier in this report, a wealth tax in Washington would likely be considered a property tax by the courts. Allowing liabilities to offset either the value of property or the rate of tax on such property would likely raise constitutional concerns, as it would erode the concept of true and fair value and create different effective rates on property based on the liabilities attached to the property and/or the liabilities of the property owner unrelated to property.

b) Taxing worldwide assets

To conform with United States constitutional requirements, a wealth tax must apply such that there is a substantial nexus between Washington and the taxable event, i.e., ownership of assets.[123] Washington's most recent wealth tax proposal applied to financial intangible assts owned by an individual and required such individual to be domiciled in Washington at any time during the tax year to trigger a reporting requirement. Attributing intangible assets to the asset owner's domicile has long been upheld as valid by the courts.[124] However, if a person's domicile were to change, including, for example, if the person were to move out of the state with the intent to create a new domicile, Washington may lack the legal authority to impose any sort of tax on the ownership of intangible assets by that person.

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[123] *See Quinn v. State*, 526 P.3d 1, 22 (Wash. 2023), cert. denied, 144 S. Ct. 680, 217 L. Ed. 2d 381 (2024) (*citing South Dakota v. Wayfair, Inc.*, 585 U.S., 138 S. Ct. 2080, 2099, 201 L. Ed. 2d 403 (2018)).
[124] *See In re Lambert,* No 98-30507 (5th Cir. June 22, 1999). & *Hall Danon v. Flournoy,* Civ. 49045 (Cal. Ct. App. June 28, 1977).

13 Moore v. United States[125]

A recent U.S. Supreme Court case, *Moore v. United States*, discussed the legality of the mandatory repatriation tax (MRT).[126] Primarily at issue in the case was whether the MRT exceeds Congress's constitutional authority to levy taxes under Article I §§ 8 and 9, and the Sixteenth Amendment of the United States Constitution, by taxing unrealized gains without apportionment among the states.[127] In a 7-2 decision, the U.S. Supreme Court held that the MRT falls squarely within Congress's constitutional authority to tax.[128]

This case was closely watched because it explored the scope of constitutionally permissible income taxes under the Sixteenth Amendment of the U.S. Constitution, and more specifically, could inform potential future disputes concerning the legality of a federal wealth tax. One of the original questions presented to the Court was whether, under the Sixteenth Amendment, income must be realized before it can be taxed.[129] However, the Court avoided the question of whether the Sixteenth Amendment includes a realization requirement,[130] leaving that issue, as well as the potential legality of a federal wealth tax, open to future litigation.[131]

The *Moore* decision likely doesn't directly impact a potential Washington wealth tax proposal for a couple reasons. First, the court's decision is narrow, as it applies to the specifics around the MRT and doesn't necessarily extend to other types of taxes. Second,

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[125] *See* generally *Moore v. United States*, 144 S. Ct. 1680 (2024).
[126] The MRT, I.R.C. § 965, is a "new, one-time pass-through tax on some American shareholders of American-controlled foreign corporations. That one-time tax addressed one of the problems that had arisen under the old system: For decades before the 2017 Act, American-controlled foreign corporations had earned and accumulated trillions of dollars in income abroad that went almost entirely untaxed by the United States. The foreign corporations themselves were not taxed on their income. And other than subpart F, which applies mostly to passive income, the undistributed income of those foreign corporations was not attributed to American shareholders for the shareholders to be taxed." Moore v. United States, 144 S. Ct. 1680, 1686 (2024)
[127] *See* Petition for Writ of Certiorari, Moore v. United States, 144 S. Ct. 1680 (2024).
[128] *Moore v. United States*, 144 S. Ct. 1680, 1696 (2024).
[129] *See* Petition for Writ of Certiorari, *Moore v. United States*, 144 S. Ct. 1680 (2024).
[130] "[W]hether realization is required for an income tax. We do not decide that question today." *Moore v. United States*, 144 S. Ct. 1680, 1696, 219 L. Ed. 2d 275 (2024).
[131] "[The Court's] analysis today does not address the distinct issues that would be raised by (i) an attempt by Congress to tax both the entity and the shareholders or partners on the entity's undistributed income; (ii) taxes on holdings, wealth, or net worth; or (iii) taxes on appreciation." Moore v. United States, 144 S. Ct. 1680, 1689 (fn. 2), 219 L. Ed. 2d 275 (2024).

the *Moore* case was decided on federal constitutional grounds, which places very different limitations on direct taxes such as property taxes.[132] Unlike the federal government, states and local governments have fewer restrictions placed on their ability to levy direct taxes.[133] As such, states are not necessarily bound by the apportionment and realization requirements animating federal tax principles. Thus, the *Moore* verdict should not directly impact a wealth tax in Washington.

However, the *Moore* case does appear to create some implications for a wealth tax at the federal level. In the majority opinion, the Court states that, "[i]n its brief and at oral argument, for example, the Government indicated that a hypothetical unportioned tax on an individual's holdings or property (for example, on one's wealth or net worth) might be considered a tax on property, not income."[134] If this apparent concession during oral arguments were officially adopted by the Court, it would likely create a more difficult path for the passage of a wealth tax at the federal level because of the federal constitutional limitations placed on direct taxes.

A Washington wealth tax would benefit from administrative efficiencies should a federal wealth tax be imposed, as Washington could benefit from federal guidance and federal filings when administering its own wealth tax. To the extent a federal wealth tax faces constitutional issues in addition to political hurdles, it decreases the likelihood that a federal wealth tax will be imposed and thus decreases the likelihood that Washington could rely on such federal resources in administering its own wealth tax.

The *Moore* decision, while insightful, doesn't appear to have any direct implications for a Washington wealth tax. However, it's important to note that the *Moore* decision is relatively new and may have larger implications in the future not contemplated at the time of writing this report.

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[132] "Generally speaking, direct taxes are those taxes imposed on persons or property." *Moore v. United States*, 144 S. Ct. 1680, 1687, 219 L. Ed. 2d 275 (2024).
[133] In practice, property taxes are traditionally levied at the local government level.
[134] *See Moore v. United States*, 144 S. Ct. 1680, 1697, 219 L. Ed. 2d 275 (2024).

Fiscal model updates

14 Estimating revenue and expenditures

The fiscal model for a wealth tax incorporates several key fiscal factors, such as tax base, exemption threshold, assets subject to tax, and data sources. The fiscal model must balance all these components to achieve economic equity, revenue generation, and compliance. One particularly difficult aspect in creating a fiscal model for a wealth tax is the limited amount of data available. Federal income tax return data can be insightful for developing the fiscal model, but it doesn't capture the entirety of a person's wealth. For example, "[according to Forbes 400, Warren] Buffett's fiscal income was $63 million in 2010 when his wealth was $45 billion and $12 million in 2015 when his wealth was $62 billion."[135] The ratio of income relative to wealth will vary among high-net-worth persons, and data relying solely on reportable income cannot provide an accurate picture of true wealth, at least for the purposes of developing a fiscal model.

14.1 Potential new or updated data sources

Experts suggest that wealth tax revenue projections depend on "three key elements: aggregate wealth, the share of aggregate wealth the rich own, and finally what fraction of their wealth they could shelter from the tax."[136] Washington's fiscal model for its most recent wealth tax proposals[137] combined a variety of financial data and academic research to help predict revenue generation. Some of this data included United States Internal Revenue Service personal income returns data from the federal tax year 2019[138] and

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[135] Saez, E., & Zucman, G., (2019). Progressive wealth taxation. *Brookings Papers on Economic Activity*, Fall, 437–533 supra note 36. https://doi.org/10.1353/eca.2019.0017 (In a subsequent working paper, the authors of this paper have called into question the efficacy of current wealth estimates in income inequality research. *See generally* Saez, E., & Zucman, G., (2022) Top Wealth in America: A Reexamination, NBER working paper #30396, August 2022. https://www.nber.org/system/files/working_papers/w30396/w30396.pdf).

[136] Saez, E., & Zucman, G. (2019). Progressive wealth taxation. *Brookings Papers on Economic Activity*, Fall, 437–533 at 457. https://doi.org/10.1353/eca.2019.0017

[137] SB 5486 (2024) and HB 1473 (2024).

[138] *See generally SOI Tax Stats - Individual income tax returns complete report (Publication 1304)*. https://www.irs.gov/statistics/soi-tax-stats-individual-income-tax-returns-complete-report-publication-1304

Washington's Economic and Revenue Forecast Council's November 2022 forecasts.[139] Washington also used data from three research papers to inform the fiscal model.[140] The fiscal model took into consideration the risk of capital flight and taxpayers' predicted behavioral responses if the proposal were to pass. Some of the new data the department may use to update its fiscal model impact includes, but is not limited to, updated federal personal income return data, updated economic and revenue forecasts, updated data originally derived from research papers, an updated research paper[141] and updated interest rates.

Importantly, even with updated income, forecasts, and other data points, the fiscal model cannot predict the exact revenue a wealth tax in Washington would generate. As noted above, data on true wealth is limited. It will also be difficult to accurately assess compliance rates and behavioral responses. While these have been researched for other wealth taxes, this research is often based on country-level wealth taxes as opposed to state-level wealth taxes.

14.2 Capital flight risk

A state-level wealth tax in the United States will be novel and the risk of capital flight[142] might be increased due to relatively limited barriers to changing one's domicile within the United States. The risk of capital flight is based on many factors and analyzing data from countries that previously implemented or currently have wealth taxes can only help predict behavior. For example, France's Finance Ministry reported that, in 2014, 915 taxpayers subject to the wealth tax left France and 311 taxpayers returning to France were registered.[143] However, it's important to note that this doesn't necessarily mean the primary decision to leave the country was based on the wealth tax. Other tax changes in

[139] *See generally Washington State Economic and Revenue Forecast*. Volume XLVII, No. 4 (2022). https://erfc.wa.gov/sites/default/files/public/documents/publications/nov22pub.pdf
[140] Saez, E., & Zucman, G., (2019). Progressive wealth taxation. *Brookings Papers on Economic Activity*, Fall, 437–533. https://doi.org/10.1353/eca.2019.0017; Smith, M., Zidar, O. M., & Zwick, E. (2021), Top Wealth in America: New Estimates and Implications for Taxing the Rich. National Bureau of Economic Research, https://www.nber.org/papers/w29374; & Advani, A., & Tarrant, H. (2021), Behavioral Responses to a Wealth Tax. Fiscal Studies. DOI:10.1111/1475-5890.12283.
[141] Smith, M., Zidar, O. M., & Zwick, E. (2022). Top Wealth in America: New Estimates Under Heterogeneous Returns. *Quarterly Journal of Economics*, 138(1): 515–573.
[142] Capital flight is the risk of person choosing to leave the jurisdiction.
[143] Perret, S., (2021). Why did other wealth taxes fail and is this time different? Wealth Tax Commission Evidence Paper, *supra note* 27 at 547.

France, which lowered the tax rate for individuals' personal income at the top end, could also have played a role[144] in addition to unrelated personal preferences. Additionally, Washington's most recent wealth tax proposal did not include an exit/expatriation tax, further strengthening the capital flight risk as the barrier to leave is lessened when compared to countries with such a tax. This is supported by research that suggests internal migration is easier in regional wealth taxes.[145]

Conclusion

Wealth taxes may offer a means to address tax inequality and help fund government programs, but their success hinges on a design that takes into consideration the difficulties and previous issues that jurisdictions with a wealth tax have faced. Overcoming the challenges associated with administering a wealth tax—including asset valuation and identification complexities, unknown voluntary compliance rates, aggressive tax planning strategies, and the other administrative challenges identified in this report—will be daunting. It is also unclear how reliable of a revenue source a wealth tax would be in, at least, its early years. While the costs for administering a wealth tax might be possible to estimate, it is difficult to estimate revenues from a proposed wealth tax due to insufficient data, capital flight risk, and the novel nature of the tax. Despite the challenges faced in administering and estimating the revenue from a wealth tax in Washington, the department believes we could administer the tax if it were to be signed into law.

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[144] Perret, S., (2021). Why did other wealth taxes fail and is this time different? Wealth Tax Commission Evidence Paper, 6 at 547.
[145] Perret, S., (2021). Why did other wealth taxes fail and is this time different? Wealth Tax Commission Evidence Paper, 6 at 548.

Appendices

15 Appendix A - References

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16 Appendix B – Wealth tax questionnaire questions

Wealth Tax Questionnaire

General

1. Who is the wealth tax subject matter expert (name, email, phone)? May we reach out to this person directly if we have any follow-up questions?
2. Is the subject matter expert for wealth tax the same for other taxes on high-net-worth individuals?

Administration

1. What is your biggest wealth tax administrative challenge?
2. What measures have you implemented to improve ease of administration?
3. Are there any legal constraints or significant administrative challenges that caused you to structure the tax in a way that unique or may appear less than ideal?

Enforcement

1. What enforcement mechanisms do you use and find effective?
2. What is your biggest enforcement challenge?
3. How do you identify and estimate the wealth of a taxpayer who does not file/pay wealth taxes?
4. What is your compliance rate?
5. How do you plan to enforce wealth taxes against taxpayers who move out of your jurisdiction?

17 Appendix C - Questionnaire responses detailed

17.1 Administration Responses – Details

Jurisdiction	Biggest Challenge (1)	Measures Implemented (2)	Legal Constraints or additional considerations (3)
Spain	Verifying residency to confirm taxability since the wealth tax is entirely administered by Regional Tax Administrations. Regional Tax Administrations are able to change the thresholds, rates, and deductions. Several Regional Administrations increased exemptions to nearly 100% which makes it difficult for the national tax administrator to respond with specific details.	Made the deadline for filing Wealth Tax return is the same as that for filing the Personal Income Tax return each year. Required electronic filing of the wealth tax return.	Competing regional priorities of the Regional Tax Administrations makes it difficult to simplify tax administration.

Jurisdiction	Biggest Challenge (1)	Measures Implemented (2)	Legal Constraints or additional considerations (3)
Argentina	Valuation methods differing amongst provincial jurisdictions. While the wealth tax is administered at the federal level, real estate valuation is the responsibility of each provincial jurisdiction, and there is a lot of variation in the valuation methodologies used by each provincial jurisdiction. One of the major sources of information used to administer the tax, the automatic exchange of information, comes with standards of use and confidentiality requirements. Argentina is working to develop systemic tools to comply with these standard and requirements.	Electronic payment is required. Expanding taxpayer resources, such as assisted tax returns, to promote voluntary compliance Requiring the reporting of beneficial owners of shares and equity interests, regardless of the percentage of interest held.	Exemption thresholds and treatment of properties intended as a taxpayer's home conflict with other asset exemption amounts and are updated on a yearly basis. Share and equity interest in the capital of companies incorporated in Argentina is paid by said companies, with a fixed tax rate of 0.50%. In 2019, Argentina changed from "domiciled" to "fiscal residence," which is narrower. In 2019, Argentina adopted a separate progressive tax scale for assets located abroad vs. assets located in Argentina.
France	Previous wealth taxes required taxpayers to file under two different systems depending on the asset valuations, which was expensive to operate and complex to administer.	The wealth tax is now managed under one system, which has reduced costs and simplified data processing.	No response provided

Jurisdiction	Biggest Challenge (1)	Measures Implemented (2)	Legal Constraints or additional considerations (3)
		Electronic filing is required. Data auto-fills from previous year returns and auto-calculates the tax due. Professionals who file on behalf of clients can use the "Electronic Data Exchanges" to file several returns simultaneously.	
Appenzell (CH)	Valuation of real estate and of unlisted company shares.	Real estate is only valued every 10 years by specialists, the value is then valid for 10 years. The value of unlisted companies is valued according to a fixed scheme (1 x net asset value plus 2 x capitalized earnings value divided by 3). The wealth tax rate is relatively low.	No, in principle all assets and liabilities are taxed at their true value.

Jurisdiction	Biggest Challenge (1)	Measures Implemented (2)	Legal Constraints or additional considerations (3)
Nidwalden (CH)	Determining fair market value, particularly unlisted participations and moveable assets abroad.	Taxpayers are required to declare their assets and banks provide tax statements to customers. The federal government provides valuation methodologies for unlisted securities.	Bank client confidentiality is a legal obstacle for tax authorities.

17.2 Enforcement Response – Details

Jurisdiction	Enforcement Mechanisms (4)	Biggest Enforcement Challenge (5)	Identifying Non-Filers Wealth (6)	Compliance Rate (7)	Enforcement of the tax when individual leaves jurisdiction (8)
Spain	Tax period for wealth tax and income tax is the same and filed online. Robust auditing has proven effective.	No response provided	Tax authorities receive information from banks, property records, other taxpayers, other institutions about the assets and rights of economic content like shares, bonds or real estate.	No response provided	The central administration will verify residency and open an audit.

Jurisdiction	Enforcement Mechanisms (4)	Biggest Enforcement Challenge (5)	Identifying Non-Filers Wealth (6)	Compliance Rate (7)	Enforcement of the tax when individual leaves jurisdiction (8)
Argentina	Taxpayer databases and Personal Assets tax returns are reviewed and the system flags taxpayer accounts that may have undervalued properties located abroad. Electronic tax audits yield a high level of response from taxpayers who amended their tax returns. Collecting data from different agency systems and developing a “Risk Matrix” that contains indicators and filters by type of activity and sector.	Non-compliance and tax evasion.	Implemented a centralized database to manage taxpayer information in order to develop tax audit measures, analyze the evolution of taxpayers’ assets year over year, and make projections. Automatic exchange of information on financial accounts through the “CRS” standard. 2022 FATCA Agreement with US. Argentina now receives financial information from more than 100 jurisdictions, which is used to verify that residents are correctly reporting foreign financial accounts and taxes.	2023 filing compliance rate is 82%, payment compliance rate is 97%.	Taxpayers that move out of Argentina must “carry out a formality” to prove the loss of residence and the cancellation of registration in the tax.

Jurisdiction	Enforcement Mechanisms (4)	Biggest Enforcement Challenge (5)	Identifying Non-Filers Wealth (6)	Compliance Rate (7)	Enforcement of the tax when individual leaves jurisdiction (8)
France	Increased audit staff. Created specialized groups of auditors that focus on an audit type, such as a centralized audit group that focuses on complex audits, inter-regional groups that focus on company directors, and local audit groups that do tax discovery.	Concealment of assets, valuations of declared assets. Difficulties identifying and valuing assets held indirectly, through companies, or by individuals or legal entities established abroad.	Data mining and review of databases (tax returns, income declared by third-parties, notarial deeds, declarations of the chain of ownership of properties when they are held by a legal entity, bank accounts).	Unknown.	Send out reminders to taxpayers the system has identified as potentially owing the tax, such as previous filers.

Jurisdiction	Enforcement Mechanisms (4)	Biggest Enforcement Challenge (5)	Identifying Non-Filers Wealth (6)	Compliance Rate (7)	Enforcement of the tax when individual leaves jurisdiction (8)
Appenzell (CH)	Legal obligation to declare all assets as of December 31 of a tax year. The tax allowance of CHF 75,000 (approx. USD 82,000) helps to ensure that part of the assets remain tax-free and thus the declarations can be made more correctly.	Cash, gold and other similar assets for which no explicit certificates exist are difficult for the tax authorities to keep track of.	Income and property taxes are declared and decreed together. If no declaration is filed, a discretionary ruling is made and a fine of up to CHF 10,000 (max. approx. USD 11,000) is imposed.	About 98 percent of all taxpayers comply with their declaration obligations. The remaining 2 percent receive a discretionary ruling. Within the framework of supplementary and penalty tax proceedings, assets are taxed retroactively for about 3 to 5 per thousand of the taxable persons. The penalty is one third to three times the amount of tax evaded.	Removals within Switzerland are unproblematic, as assets are taxed throughout the country. When moving to other countries, we require proof of tax registration there.

Jurisdiction	Enforcement Mechanisms (4)	Biggest Enforcement Challenge (5)	Identifying Non-Filers Wealth (6)	Compliance Rate (7)	Enforcement of the tax when individual leaves jurisdiction (8)
Nidwalden (CH)	Comparing change in wealth year over year, which also helps validate income. Tax authorities can request documents from third parties (such as banks) to verify assets/debts.	Bankruptcy of taxpayers resulting in inability to pay tax due.	Tax authorities can assess wealth tax at their discretion. Tax authorities gather third party documents for this purpose.	Unknown but a high compliance rate is assumed Introduction of voluntary disclosures and AEOI shows that 1% of the population has not declared foreign assets.	Tax collection strategies are effective provided the taxpayer is solvent. Unable to enforce against taxpayers who move abroad with tax debts unless they still have property in the country.

18 Appendix D – Wealth tax status report

Department of Revenue Washington State

STATE OF WASHINGTON
DEPARTMENT OF REVENUE
OFFICE OF THE DIRECTOR
P.O. Box 47454 • Olympia, Washington 98504-7454 • (360) 534-1600 • FAX (360) 534-1606

December 20, 2023

TO: The Honorable June Robinson, Chair, Senate Ways & Means Committee
The Honorable Lynda Wilson, Ranking Member, Senate Ways & Means Committee
The Honorable April Berg, Chair, House Finance Committee
The Honorable Ed Orcutt, Ranking Member, House Finance Committee

FROM: Drew Shirk, Director DJS
Washington State Department of Revenue

SUBJECT: Wealth Tax Study Status Report

The Department of Revenue (department) is submitting this status report as required by Section 141(9), Chapter 475, Laws of 2023 (the 2023-2025 fiscal biennium operating budget).

This budget proviso requires the department to:

- Research and analyze wealth taxes imposed in other countries and wealth tax legislation recently proposed by other states and the United States.
- Examine how existing and proposed wealth taxes are structured, compliance and administrative challenges of wealth taxes, best practices in the design and administration of wealth taxes, and potential data sources to aid the department in estimating the revenue impacts of future wealth tax proposals for this state or assisting the department in the administration of wealth tax.
- Consult with relevant subject matter experts from within and outside of the United States.
- Provide a status report to the appropriate fiscal committees of the Legislature by January 1, 2024, and a final report by November 1, 2024.

If you have any questions or need the report in an alternate format, please contact Steve Ewing, Legislative and External Affairs Liaison, Executive Division, at SteveE2@dor.wa.gov or (360) 534-1545.

cc: Sarah Bannister, Secretary, Washington State Senate
Bernard Dean, Chief Clerk, Washington State House of Representatives
Members, Senate Ways & Means Committee
Members, House Finance Committee
David Schumacher, Director, Office of Financial Management
Pat Sullivan, Executive Director, Legislative Affairs, Office of the Governor
Roselyn Marcus, Assistant Director, Office of Financial Management
Rachel Knutson, Budget Assistant, Office of Financial Management

Wealth Tax Study Status Report

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Introduction

This status report is required by Section 141(9), Chapter 475, Laws of 2023 (the 2023-2025 fiscal biennium operating budget). This budget proviso requires the department to:

- Research and analyze wealth taxes imposed in other countries and wealth tax legislation recently proposed by other states and the United States.
- Examine how existing and proposed wealth taxes are structured, compliance and administrative challenges of wealth taxes, best practices in the design and administration of wealth taxes, and potential data sources to aid the department in estimating the revenue impacts of future wealth tax proposals for this state or assisting the department in the administration of wealth tax.
- Consult with relevant subject matter experts from within and outside of the United States.
- Provide a status report to the appropriate fiscal committees of the Legislature by January 1, 2024, and a final report by November 1, 2024.

Summary of Deliverables

- Status report due January 1, 2024
- Final report due November 1, 2024

Timeline of Tasks Completed to Date

		07/01/2023	**Start Research**
07/01/2023	-	**07/31/2023**	**Create Internal Working Group**
07/01/2023	-	**07/31/2023**	**Establish Project Scope, Format & Timelines for Deliverables**
07/01/2023	-	**06/30/2024**	**Conduct Research**
08/01/2023	-	**10/15/2023**	**Contact Other Jurisdictions & Subject Matter Experts**
08/01/2023	-	**10/15/2023**	**Draft Status Report**
10/16/2023	-	**12/31/2023**	**Review & Finalize Status Report**
		01/01/2024	**Submit Status Report**

Timeline of Remaining Deliverables

01/01/2024	-	**07/31/2024**	**Draft Final Report & Finalize Fiscal Impact Model**
08/01/2024	-	**10/31/2024**	**Review & Finalize Final Report**
		11/1/2024	**Submit Final Report**

Summary of Initial Findings

Overview and background

A wealth tax is generally considered to be a recurrent tax on the value of an individual's ownership of assets. They are considered recurrent because they are assessed on a regular interval, usually annually. They are generally assessed on the value of assets owned by an individual regardless of whether the individual engages in a transaction related to those assets during the tax reporting period. Depending on

the jurisdiction, "wealth" may be defined as the value of any combination of personal assets, including cash, bank deposits, real estate, assets in insurance and pension plans, ownership of unincorporated businesses, financial securities, and personal trusts. Some wealth taxes allow an individual to offset the value of their assets by the individual's liabilities, such as mortgages and other debts. This type of wealth tax is commonly referred to as net wealth tax.

Wealth taxes exist in a handful of countries, some of which are Organisation for Economic Co-operation and Development (OECD) members. The OECD is an intergovernmental organization where the governments of 38 member countries collaborate to develop policy standards to promote sustainable economic growth. The OECD provides a setting where governments can compare experiences, seek answers to common challenges, identify good practices, and develop high standards for economic policy. Currently 4 of the 38 OECD member countries levy a wealth tax. These countries are Colombia, Norway, Spain, and Switzerland. In the 1990s, the number of OECD member countries with a wealth tax was at its peak with 12. Non-OECD countries that currently levy a wealth tax include Belgium, Argentina, the Netherlands, and Italy.

Currently, no wealth tax exists in any state or at the federal level in the United States. Lawmakers in California, Connecticut, Hawaii, Illinois, Maryland, Minnesota, New York, and Washington introduced legislation in 2023 to increase taxes on wealthy individuals, ranging from traditional wealth tax proposals to proposals that strengthen estate taxes or capital gains taxes, but none of these proposals have led to taxes being enacted as of the writing of this report. Additionally, wealth taxes have been proposed at the federal level in recent years but, as with recent state proposals, none of these proposals have been signed into law as of the writing of this report.

As required by the budget proviso, the department has initiated contact with other states that have proposed wealth taxes, other countries that currently levy a wealth tax, and subject matter experts who research wealth taxes. The department circulated a short questionnaire (Appendix A) to other jurisdictions to gather information on how other jurisdictions address the most cited administrative and enforcement challenges of a wealth tax. As of November 1, 2023, we have received responses from four of the seven states and five of the 33 foreign tax authorities we contacted. Additionally, the department has established contact with Professors Brian Galle from Georgetown University, David Gamage from Indiana University, Emmanuel Saez from the University of California, Berkeley, and Darien Shanske from the University of California, Davis.

Comparative Analysis: Overview

Table 1: Proposed and Enacted Wealth Tax Comparison by State/Country

State/ Country	What is Taxable Wealth?	Valuation Methodology	Rate	Exemption Threshold (USD)	Filing Method
Argentina (enacted)	All assets (except stocks – companies pay taxes on behalf of shareholders)	Fair Market Value	0.5-1.75%	$17,000	Self-reported annually
Belgium (enacted)	Securities accounts	Average Value	0.15%	$1.06 million	Financial intermediaries

					declare/pay annually
California (proposed)	All assets (except TPP* up to $1 million in value and real estate not held in a trust/business entity)	Fair Market Value, Businesses at book value plus 7.5 times GAAP annual profits	1-1.5%	$50 million	Self-reported annually
Colombia (enacted)	Financial intangible assets, real property, vehicles	Fair Market Value, net (with real property preferences)	0.5-1.5%	$600,000	Self-reported annually
Hawaii (proposed)	All assets	Fair Market Value, net	1%	$20 million	Self-reported annually
Illinois (proposed)	Financial intangible assets, real property, and TPP*	Fair Market Value, net	4.95%	$1 billion	Self-reported annually
Italy (enacted)	Italian and foreign real estate, Italian and foreign financial intangible assets	Fair Market Value, Alternative Formulas	0.2-0.76%	Tax due less than $200	Self-reported annually
New York (proposed)	All assets	Fair Market Value, net	4-10.9%	$1 billion	Self-reported annually
Norway (enacted)	Financial intangible assets (except pensions), real property, TPP*	Fair Market Value, net	1-1.1%	$155,000	Self-reported annually
Spain (enacted)	Financial intangible assets (except pensions), real property, and TPP*	Fair Market Value, Book Value, Alternative Formulas	0.2-3.5%	$739,000 (varies by autonomous community)	Self-reported annually
Switzerland (enacted)	Financial intangible assets (except pensions and certain business assets), real property, and TPP*	Net Fair Market Value, Book Value, Alternative Formulas	0.13-1.1%	$75,000 (varies by canton)	Self-reported annually
Netherlands (enacted)	Savings, investments, real	Fair Market Value, net	32%	$60,000	Self-reported annually

	property, and debts	$5,000 debt allowance			
Washington (proposed)	Financial intangible assets	Fair Market Value	1%	$250 million	Self-reported annually

*TPP = tangible personal property

Comparative Analysis: State by State Detail

Our research into wealth tax proposals from other states has not been limited to traditional wealth tax proposals. The department has also contacted states and analyzed tax proposals that intend to increase taxes on wealthy individuals through different approaches, such as capital gains taxes or high earner income tax surcharges. A thorough investigation of these alternatives is outside the scope of the budget proviso requiring this report, but we felt it necessary to look into these alternatives to better understand the administrative and compliance considerations faced by states attempting to impose taxes on similarly situated individuals.

California: Tax on Extreme Wealth

During the 2023 legislative session, California lawmakers introduced Assembly Bill 259 (AB 259), which would have imposed an annual property tax of 1% on extreme wealth, defined as wealth more than $50 million per household, with this rate rising to 1.5% on wealth above $1 billion. Lawmakers have introduced a wealth tax proposal in each of the last four years, but none have passed. The tax would be imposed on worldwide assets, which means anything of value except real estate and directly held personal property located out of state. Publicly traded assets are valued as of the last day of each tax year.

The legislation allowed for several valuation methodologies for privately held businesses, including:

- The default valuation methodology where the business value is presumed to be the Generally Accepted Accounting Principles (GAAP) book value of its assets, plus 7.5 times its GAAP annual profits for the most recent business year, similar to the valuation system used for the Swiss wealth tax.
- For businesses of less than $50 million in value under this base method, taxpayers may, and for all other businesses taxpayers must, also submit a qualified appraisal.
- Valuations must be updated with information from market transactions that indicate the value of the business, such as arms-length sales of a full or partial equity interest. If there has been such a transaction within the past ten years, the business must be valued at no less than the value implied by this transaction, increased by a market rate of return determined by the California Franchise Tax Board (FTB).
- Hard-to-value and illiquid business assets may be valued under special rules, as outlined in the bill.

The legislation provided for an additional 20% penalty, on top of existing tax penalties, for large amounts of under reported tax. The penalty increases to 40% in the event under reporting was the result of failing to report assets, regardless of whether the omission was intentional or not.

California's proposals allowed for 1.5% of projected wealth tax revenues in the first two years of the tax to be used to build new enforcement capacity at the FTB and California Attorney General's office. It would have also established a task force to review and ensure ongoing resource needs, especially

resources needed to ensure a high audit rate. The bill would have also granted FTB authority to hire outside counsel or experts to aid in enforcement.

Outreach efforts

The department contacted the prime sponsor of AB 259 to discuss the details of the proposal, but we have yet to receive a response.

The department also connected with Tristan Brown, Legislative Director for the California Federation of Teachers (CFT), the primary stakeholder doing advocacy work on the wealth tax bills that have been introduced over the past few years in California. According to Mr. Brown, the recent wealth tax proposals relied on California's existing tax infrastructure for enforcement and administration on issues such as residency determination and verification. California already has a tiered personal income tax, a capital gains tax, and an estate tax, which all have enforcement and administrative provisions that closely align with that of the proposed wealth tax. Another existing statute that the wealth tax proposal relied on is California's False Claims Act (FCA), which allows private citizens to initiate lawsuits alleging that another party has attempted to defraud the state of California. Prevailing plaintiffs can share in a portion of the recovery. Historically, the FCA was not applicable to tax claims. However, the proposal would have expanded the FCA to any "claims, records, and statements" connected to a wealth tax filing.

Connecticut: An Act Concerning the Reformation of Certain Taxes and Tax Equity

During the 2023 legislative session, Connecticut lawmakers proposed House Bill 5673 (HB 5673), which would have established a 5% capital gains surcharge, increased the rate on the highest income tax bracket, and required the Connecticut Department of Revenue Services (DRS) to perform a "tax gap study" as well as a more detailed "tax incidence report," among other provisions relating to tax equity. The capital gains surcharge and income tax rate increase did not pass, but the tax gap study and tax incidence report provisions became law.

The tax gap study provisions require the DRS to estimate the state's tax gap and develop a strategy to address it. Tax gap is defined as the difference between the amount of taxes and fees owed under full compliance with all state tax laws and the amount of state taxes and fees voluntarily paid. This difference can be the result of failing to file tax returns, underreporting tax liabilities, or not paying all taxes and fees owed. The tax gap estimate must include an analysis of income and population distribution for:

- Every 10 percentage points (i.e., by income decile).
- The top 5% of all income taxpayers.
- The top 1% of all income taxpayers.
- The top 0.5% of all income taxpayers.

The tax incidence report is an existing report that DRS provides biennially to the Connecticut Legislature that reports on the overall incidence of various taxes during a specified period. Provisions of the 2023 bill:

- Expanded the taxes covered in the report to include the pass-through entity tax and any other tax that generated at least $100 million in the fiscal year before the report's submission.
- Required additional information on tax burden distribution, effective tax rates by population distribution, and the distribution of tax credits and modifications (e.g., property tax credit, state earned income tax credit, pass-through entity tax credit, and other tax modifications resulting in $25 million or more in lost revenue).

Outreach efforts

The department met with Connecticut Representative Kate Farrar, one of the sponsors of HB 5673, to discuss the administrative and enforcement challenges that were considered when developing the bill and any strategies contemplated to address these challenges. Representative Farrar believes the results of the tax gap study and tax incidence report will help with enforcement and administration of any new or existing taxes on the ultra-wealthy and that the study should identify some of the wealth gaps and income that is not currently being reported to, or taxed by, the state. Representative Farrar also explained that the tax gap study could identify opportunities for greater use of technology for income tax enforcement and opportunities for increased funding to address the staffing shortage of DRS auditors in Connecticut. The first tax gap study report is due December 15, 2024.

Hawaii: Wealth Asset Tax

During the 2023 legislative session, Hawaii lawmakers introduced Senate Bill 925 (SB 925), which would have established a wealth asset tax of 1% on the state net worth of each individual taxpayer who holds $20 million or more in assets in Hawaii. A taxpayer's state net worth includes the aggregate value of all assets, including real property, financial intangible assets, and tangible personal property.

During the 2022 legislative session, a similar proposal, Senate Bill 2389 (SB 2389), was introduced which would have established a wealth asset tax of 1% on all assets of a taxpayer except for interests in real property in excess of $50 million, and an additional 0.5% surtax on assets in excess of $1 billion.

Outreach efforts

Legislative staff from the Office of Senator Karl Rhoads, the prime sponsor of the 2022 and 2023 bills, explained that these measures did not pass, but that the 2023 bill will carry over to the 2024 session. Staff explained that when drafting these proposals, they considered U.S. Senator Ron Wyden's (D-OR) congressional proposal for a "billionaire's tax" that was being discussed nationally in 2022 and recent California state proposals. They ultimately based the proposal on California legislation, specifically Assembly Bill 1253 (AB 1253) in 2020 and Assembly Bill 310 (AB 310) in 2021. Staff also explained that a separate tax analysis is not routine for introducing legislation in Hawaii and that the relevant agencies provide comments on bills during any legislative hearings.

Public testimony on SB 925 from Hawaii's Attorney General highlighted that the bill raised a novel issue under section 3 of article VIII of the Constitution of the State of Hawaii. According to the Attorney General, "Existing case law does not provide a clear answer to the question of whether a tax on net worth, where calculating net worth requires consideration of the taxpayer's assets, which includes real property among other assets, necessarily constitutes a 'taxation of real property' within the meaning of article VIII, section 3 [of the Constitution of the State of Hawaii]."

Hawaii's Department of Taxation (HDOT) also provided public testimony on SB 925. Most aspects of administration and enforcement for the bill were left to the HDOT to adopt rules as necessary. The agency requested that the bill be amended to add necessary details to implement and administer the tax, specifically addressing the types of debt that would be considered in determining net worth, valuation and apportionment methodologies, audit and assessment provisions, among others. The HDOT also suggested a working group be convened to develop and recommend a detailed tax proposal.

Illinois: Extremely High Wealth Mark-to-Market Tax Act

During the 2023 legislative session, Illinois lawmakers introduced House Bill 3039 (HB 3039), which would have established a novel mark-to-market tax on the gains or losses of net assets held by a resident taxpayer worth a fair market value in excess of $1 billion. A mark-to-market tax is a tax that requires a taxpayer to recognize gains or losses on an asset owned by the taxpayer at the end of a reporting period, usually the end of the tax year, as if the asset was sold for its fair market value on that date with adjustments made for mark-to-market taxes paid in prior years. The bill attempted to address tax avoidance by outlining that any feature of an asset, such as a poison pill, that was added with intent and has the effect of reducing the value of the asset is disregarded for valuation purposes. The bill provided select administrative provisions for the Illinois Department of Revenue (IDOR), such as requiring the IDOR to specifically request the filing of mark-to-market tax forms by any resident individual expected to have net assets in excess of $1 billion. The bill also stated that taxpayers with an adjusted gross income summed over the previous 10 years in excess of $600 million must file the mark-to-market tax forms. However, most other aspects of administration and enforcement for the bill were left to the IDOR to adopt rules as necessary. The bill did not pass during the 2023 legislative session.

Outreach efforts

The department contacted the prime sponsor of HB 3039 to discuss the details of the proposal, but no response has been received as of the date of this report.

Maryland: Investing in Marylanders Act of 2023

During the 2023 legislative session, Maryland lawmakers introduced House Bill 337 (HB 337), which was a comprehensive tax package intended to limit corporate tax deductions and to establish a 1% capital gains surcharge. Maryland's tax structure requires that the state conform to federal tax reforms. Based on public testimony provided by the bill's prime sponsor, Delegate Julie Palakovich Carr, many of the changes in the bill, such as the removal of the deduction for foreign-derived intangible income and the real estate investment trusts taxable income deduction, were intended to undo provisions of the Federal Tax Cuts and Jobs Act of 2017 and to align Maryland with other states. The bill did not pass during the 2023 legislative session.

Outreach efforts

The department reached out to the prime sponsor of HB 337 to discuss the details of the proposal, but no response has been received. The department also contacted the policy analyst who completed the fiscal note analysis from the General Assembly of Maryland Department of Legislative Services, who directed us to contact the prime sponsor with questions about the bill.

Minnesota: Net Investment Income Tax and Capital Gains Tax

During the 2023 legislative session, the Minnesota Legislature enacted House File 1938 (HF 1938), a new net investment income tax of one percent on net investment income over $1 million, effective for taxable years beginning after December 31, 2023. Net investment income is income as defined by section 1411(c) of the Internal Revenue Code. The net investment income tax would be in addition to Minnesota's individual income tax.

Additionally, during the 2023 legislative session Minnesota Governor Walz's introduced a budget plan with a proposed capital gains tax. This would have imposed a capital gains tax on "preferential rate income," which is defined as the sum of net long-term capital gain income, as defined in section 1222 of

the Internal Revenue Code, plus qualified dividend income, as defined in section 1(h)(11) of the Internal Revenue Code. The proposal also included an additional income tax on all preferential rate income over $500,000, but less than $1 million, of 1.5%. The proposal was not adopted during the 2023 legislative session.

Outreach efforts
The department contacted the Governor's office and the prime sponsor of HF 1938 but has yet to receive a response.

New York: Billionaire Mark-to-Market Tax Act
During the 2023 legislative session, New York lawmakers introduced Senate Bill S1570 (SB S1570), which would have established a novel mark-to-market tax on the gains or losses of net assets held by a resident taxpayer worth a fair market value of $1 billion or more. These gains or losses would be taxed in the same way as the existing income tax and capital gains tax. Assets include all real or personal, tangible or intangible property, wherever situated, and are to be valued at fair market value. The bill attempted to address tax avoidance by outlining that any feature of an asset, such as a poison pill, that was added with intent and has the effect of reducing the value of the asset is disregarded for valuation purposes. The bill provided select administrative provisions for the New York Department of Taxation and Finance (NYDOTF), such as outlining what assets should be reported on a tax return. However, most other aspects of administration and enforcement for the bill were left up to the NYDOTF to adopt rules as necessary. The bill did not pass during the 2023 legislative session.

Outreach efforts
The department contacted the prime sponsor of SB S1570 but has yet to receive a response. Of note, the language in this proposal closely aligns with Illinois' mark-to-market tax proposal.

Washington: Washington State Wealth Tax
During the 2023 legislative session, Washington lawmakers introduced Senate Bill 5486 (SB 5486), which was a narrowly tailored property tax on extreme wealth derived from the ownership of stocks, bonds, and other financial intangible property. This proposal would have imposed a wealth tax on each Washington resident at a rate equal to one percent multiplied by the Washington resident's taxable worldwide wealth. Taxable worldwide wealth was defined as the fair market value of all of a person's financial intangible assets as of December 31 of the tax year. Up to $250 million of a person's financial intangible assets would be exempt from the tax.

Financial intangible assets were defined as:
- Cash and cash equivalents.
- Financial investments such as: annuities, bonds, treasury bills, mutual funds or index funds, stocks, publicly traded options, futures contracts, commodities contracts, put and call options, pension funds, mortgages and liabilities secured by real property, certificates of interest in gold and other precious metals or gems, and other similar investments.
- Units of ownership in a subchapter K entity.
- Similar intangible assets.

As a note, the department believes the proposed tax in SB 5486 would likely be considered a property tax and, therefore, must comply with the constitutional limitations applicable to property taxes. If

correct, the tax must be uniform and the aggregate tax rate of the tax must not exceed $10 per $1,000 of true and fair value of the property subject to tax.

Outreach efforts

The department was consulted during the development of SB 5486.

Comparative Analysis: Country by Country Detail

Our research into wealth taxes in other countries is not limited to traditional wealth taxes. The department has also contacted countries and analyzed taxes that have features of a wealth tax, such as taxes that apply to securities holdings or real estate, given the similarities in administration and enforcement. Currency conversions are provided for context in each section. The values are approximate and as of exchange rates on November 1, 2023.

Argentina

Argentina levies an annual wealth tax the global assets of individuals exceeding ARS 11 million (approx. $32,000). No deduction is available for liabilities. The tax rate is progressive, ranging from 0.5-1.75% for assets held in Argentina and 0.7-2.25% for assets held abroad. These taxable assets include, among other items, real estate, vehicles, and bank accounts. However, savings accounts, term deposits at Argentine banks, and Argentine government bonds are exempt from the wealth tax. Individuals domiciled abroad and working in Argentina for less than five years only owe wealth tax on their personal assets located in Argentina. Taxes are self-assessed and reported by taxpayers annually.

Outreach efforts

The department contacted the federal tax authority but has yet to receive a response.

Belgium

The Belgian Parliament adopted an annual tax on securities accounts on February 26, 2021. A 0.15% tax applies to the average value of securities accounts held by resident and non-resident individuals, companies, and legal entities. The tax applies to all securities (including cash in the securities account) if the average value of the securities account exceeds EUR 1 million (approx. $1.07 million), with the tax determined based on the entire average value. The tax is levied on securities accounts and financial intermediaries declare and pay the tax annually on behalf of account owners.

The law featured a general rebuttable anti-abuse provision that would disregard transactions designed to evade the tax between the announcement date of the tax, October 30, 2020, and its effective date, February 26, 2021.

In addition, the law included two specific irrebuttable anti-abuse provisions to address tax avoidance by account owners:

- Splitting the securities account into several accounts with the same financial institution, whereby securities that are held on one account are transferred to one or more other accounts, in order to remain under the EUR 1 million (approx. $1.07 million) threshold per account.
- Converting (dematerialized) securities held on a securities account into nominative instruments that are not held on a securities account, and which are directly registered with the issuer.

These irrebuttable anti-abuse provisions were annulled by the Constitutional Court of Belgium. However, the general anti-abuse measure is still an effective enforcement tool for tax avoidance. In short, it is possible that a split or conversion may still qualify as tax abuse under the general anti-abuse provision.

In addition, most financial institutions are subject to the Fiscal Prevention Policy which prevents any cooperation with clients that intend to avoid the annual tax on securities accounts. By systematically enabling or assisting clients in their efforts to avoid the annual tax on securities accounts, the institution could be accused of using a "special tax fraud mechanism" which could lead to administrative sanctions from regulators and even criminal prosecution of the employees involved.

Outreach efforts

The department contacted the federal tax authority but has yet to receive a response.

Colombia

Effective January 1, 2023, Colombia's Tax Reform Law is an annual wealth tax for individuals with net worldwide wealth that exceeds 72,000 tax value units (TVU) (approx. $764,000). Taxpayers are allowed to exclude the value of their household up to TVU 12,000 (approx. $127,000). Taxpayers subject to the wealth tax include residents as well as nonresidents that own wealth held in Colombia. Progressive rates range from 0.5%-1.5%.

Outreach efforts

The department contacted the federal tax authority but has yet to receive a response.

Italy

Italy does not have a general wealth tax. However, they have four taxes that share wealth tax features.

The municipal tax on property is a tax on the gross cadastral value of real estate, with a tax rate ranging from 0.1-0.86% depending on the type of real estate (agricultural, industrial, and other). The cadastral value is a value that is established by tax authorities for any property based on the registered value of the land and its buildings, similar to property tax assessments completed by county assessors here in Washington. Primary residences are exempt unless they are classified as luxury properties, which is a classification based on cadastral criteria and case law.

The foreign property tax is a 0.76% tax on the value of real estate located outside of Italy. The valuation methodology depends on the location of the property. The tax is not due if the total tax liability falls within a de minimis amount, currently set at EUR 200 (approx. $217).

The stamp duty is a tax on all communications, recordings, and deeds issued to or by competent authorities or financial intermediaries. For bank communications, such as bank statements, an annual fixed amount of EUR 34.20 (approx. $36.63) is charged for individuals and EUR 100 (approx. $109) for businesses. The tax only applies to bank accounts with an annual average balance more than EUR 5,000 (approx. $5,300). A 0.2% tax applies to the fair market value of communications related to financial products.

The foreign investment tax is a 0.2% tax on the fair market value of foreign financial assets. If an investment is not traded on a stock exchange, the nominal value is used. When a nominal value cannot

be identified, the redemption value or purchase price is used. Precious metals and certain shareholdings in limited companies do not fall within the definition of financial products and are not subject to the tax.

These taxes are self-assessed and reported by taxpayers annually, except for the stamp duty on bank communications, which most banks collect and remit on behalf of taxpayers. Reporting, payment, and penalty provisions for these taxes are the same as existing Italian income tax reporting laws. If a taxpayer has a reporting obligation for foreign assets, irrespective of whether tax may be due, irregularities in filing can result in penalties ranging from 3% to 15% of the undeclared tax due amounts (6% to 30% in cases where the assets are held in a "blacklist" country). Failure to report may result in penalties ranging from 90% to 180% of the tax due. The late payment penalty is 15-30% of the unpaid amount, depending on the length of the delinquency.

The Italian tax authority has a statutory lookback period of five years for filed returns and seven years for understated or incorrect returns. Audits take three forms:

- An initial check, carried out automatically on all tax returns before the submission of the tax return.
- A second formal check, carried out on samples of tax returns to control that information reported in a tax return is correct.
- A substantive audit, intended to correct information reported on a tax return and to do tax discovery on non-filers. The tax authority uses information and documentation acquired through inspections and verifications. This process usually begins with summons or questionnaires requesting supporting documentation. The Italian tax authority can request financial information from banks concerning the personal accounts of a taxpayer.

Outreach efforts

Italy's federal tax authority responded to our questionnaire and explained that they do not have a wealth tax, nor, to the best of their knowledge, any proposals for such a tax. As a result, they did not provide answers to our questions.

Norway

Norway's wealth tax is a 1% tax on the fair market value of a resident's net global assets, regardless of the type of asset or the asset's location. The tax applies to an individual's worldwide net wealth above NOK 1.7 million (approx. $150,000). When net wealth exceeds NOK 20 million (approx. $1.8 million), the marginal tax rate increases by 0.1%. Certain financially intangible assets are exempt from tax, including conditional rights and time-limited rights of use, goodwill and know-how, and interest and dividends on stocks.

There are multiple tax preferences and valuation discounts available depending on the asset type:

- Shares in listed companies are valued at 65% of their listed price.
- Unlisted shares in Norwegian companies are valued at 65% of the proportion of the company's total tax value.
- Unlisted shares in foreign companies are valued at 65% of the presumed sales value of each share.
- Primary residences are valued at 25% of estimated market value up to NOK 15 million ($1.4 million). Residences above this are valued at 50% of estimated market value. Commercial properties are valued at 65% of estimated market value.

The Norwegian Tax Act includes a wealth tax provision for persons with rights to income from, and use of, assets or properties. For example, this provision may apply to a beneficiary of a fixed-income trust where the beneficiaries annually receive all income from the trust. If the beneficiaries have full control over the trust and can take back the trust's assets, the trust is sometimes disregarded for tax purposes.

Wealth taxes in Norway are self-assessed and reported biannually. Third-party information about the individual wealth base is sent to the tax authorities from banks and publicly traded as well as private companies.

Outreach efforts

The department contacted the federal tax authority but has yet to receive a response.

Netherlands

Dutch tax authorities in the Netherlands are currently implementing a three-box method on their income tax return to tax wealth and capital gains. Income from work is taxed in box 1, substantial interest is taxed in box 2, and capital and income from savings and investments is taxed in box 3. The wealth tax in the Netherlands is calculated based on the value of the assets declared in Box 3. Dutch tax authorities are currently working towards a capital gains system for box 3 as well, with an estimated completion date of 2026. The taxation of individuals in the Netherlands is progressive and the rates and exemption amounts are subject to minor changes every year.

For 2022, assets below EUR 50,650 (approx. $54,000) in value are exempt. Taxpayers are allowed to apply debts as a credit up to EUR 3,200 (approx. $3,400) per person in 2022. Taxes are self-assessed and reported annually by taxpayers, at a 31% rate for box 3 income in 2022 (32% in 2023).

Outreach efforts

The department contacted the federal tax authority but has yet to receive a response.

Spain

Spain's wealth tax is levied on the worldwide net wealth of each individual resident. Certain assets, such as antiques/historical goods, intellectual property owned by the creator, pension plans, and certain insurance policies, are exempt. Each taxpayer is allowed a EUR 700,000 (approx. $760,000) personal allowance and a EUR 300,000 (approx. $325,000) primary residence exemption.

The wealth tax has a federal and local component. The tax is administered at the local level, and local jurisdictions have authority to adjust exemption values, tax rates, and deductions. At the national level, wealth tax is levied on a progressive sliding scale. If a local jurisdiction has not passed its own tax rate, the general tax scale, ranging from 0.2-2.5% applies.

Each class of property has a unique valuation methodology:

- Real estate is valued at the higher of either the acquisition value, the cadastral value, or the value assessed by the tax authorities in the context of a tax proceeding.
- Bank deposits are valued at the higher of the bank balance as of December 31 or the average bank balance of the last quarter.
- Stocks are valued at the average fair market value of the last quarter.
- Unlisted shares have two possible valuation methodologies:

- If the company has been audited and the audit report has been unqualified, the value used is the net book value of the shares.
- If the company has not been audited or if the audit report has not been unqualified, the value used is the higher of the share capital, the net book value; or the amount resulting from capitalizing at 20% the average of the profits derived from the last three years.

Wealth taxes in Spain are self-assessed and reported by taxpayers annually. Wealth tax returns must be filed even if no tax is due. The maximum late fee is 20% of the tax due and applies when payment is delayed more than a year. Interest for late payment only starts to accrue after the first year of delay. The taxing authorities have the ability to initiate an audit within the same four-year period. Audits are handled by the local jurisdictions, although federal tax authorities may complete wealth tax audits when reviewing other taxes, such as personal income tax, corporate income tax, or non-resident income tax.

Outreach efforts

The department contacted the federal tax authority but has yet to receive a response.

Switzerland

Switzerland's wealth tax is a tax on the net worldwide assets of Swiss residents. All assets are subject to wealth taxation except personal household items, pensions, assets attributable to foreign businesses, and foreign real estate. Taxpayers may deduct all personal liabilities from their total assets.

Switzerland is composed of the federal state and 26 cantons, which are member states of the federal state. The Federal Constitution of the Swiss Confederation allows the Swiss cantons the full right of taxation except for taxes that are exclusively reserved for the federal government. All cantons levy a wealth tax and determine their own wealth tax rates, ranging from 0.13-1.1%. All cantons have a general wealth tax allowance of between CFH 70,000 (approx. $77,000) and CFH 200,000 (approx. $220,000) depending on the canton.

The 1990 Federal Tax Harmonization Law (FTHL) harmonizes the major aspects of the cantonal tax systems, such as the tax base, but only provides broad guidelines concerning valuation. Non-business assets must be valued at market value (without defining market value) and business assets must be valued at book value. The value of private companies is determined each year by the cantonal tax authorities based on an inter-cantonal administrative guideline agreed upon by the cantonal tax departments. When the value of a company cannot be easily be assessed, the value is determined using a formula called "the practitioner's method." A company's value is determined by calculating the weighted average of its "earnings value" and its net asset value (fair market value of assets minus liabilities), effectively counting the earnings value twice. The earnings value is determined by capitalizing the adjusted average net profit of the last two or three years with a capitalization rate (currently 7%), which applies uniformly to all industries. Holding companies or real-estate companies are valued based on the net asset value of the underlying assets.

Wealth taxes are self-assessed and reported by taxpayers annually. The wealth tax return is part of the income tax return, so wealth taxes (and a taxpayer's net wealth) must be filed annually even if no taxes are due.

Outreach efforts

3 of the 26 Swiss cantons responded to the department's questionnaire as of the writing of this report. They highlighted that the biggest administrative challenge is identifying and valuing assets, particularly non-marketable assets. When asked about compliance rates, they estimated a high compliance rate, which is aided by the global standard for the automatic exchange of information on financial accounts and voluntary disclosure programs.

Additional considerations

Pending Unites States Supreme Court Case: *Moore v. United States*

Currently, the United States Supreme Court is considering a case that will determine whether the federal government had the authority to impose the Mandatory Repatriation Tax under 26 U.S.C. section 965. *See Moore v. United States*, 36 F.4th 930 (9th Cir. 2022), *cert. granted*, 143 S. Ct. 2656 (2023). The Mandatory Repatriation Tax was a onetime tax where United States shareholders of certain specified foreign corporations were required to pay a transition tax on the untaxed foreign earnings of those corporations as if those earnings had been repatriated to the United States. While this case does not appear to address whether a state can impose a state-level wealth tax, it could have an impact on Washington's ability to do so depending on the scope of the final opinion. Washington should carefully evaluate the impact of this upcoming decision as it considers wealth tax proposals going forward.

Closing remarks

The department continues to receive questionnaire responses from other jurisdictions and is still actively researching other wealth taxes, whether in the proposal stage or currently enacted. We will continue working with subject matter experts and connecting with our colleagues in other states/countries. Our final report will include an analysis of the legal limitations we have identified in Washington along with recommendations for administrative best practices based on responses we have received to our questionnaires and conversations with tax administrators, subject matter experts, and academics. The department intends to update the fiscal model in order to explore options for an exemption threshold that balances administrative costs and revenue stability.

Appendix A: Wealth Tax Questionnaire

General

1. Who is the wealth tax subject matter expert (name, email, phone)? May we reach out to this person directly if we have any follow-up questions?
2. Is the subject matter expert for wealth tax the same for other taxes on high-net-worth individuals?

Administration

1. What is your biggest wealth tax administrative challenge?
2. What measures have you implemented to improve ease of administration?
3. Are there any legal constraints or significant administrative challenges that caused you to structure the tax in a way that unique or may appear less than ideal?

Enforcement

1. What enforcement mechanisms do you use and find effective?
2. What is your biggest enforcement challenge?
3. How do you identify and estimate the wealth of a taxpayer who does not file/pay wealth taxes?
4. What is your compliance rate?
5. How do you plan to enforce wealth taxes against taxpayers who move out of your jurisdiction?