

## WFG Underwriting Bulletin



To: All Washington Policy Issuing Agents of WFG National Title Insurance Company  
From: WFG Underwriting Department  
Date: August 23, 2019  
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Subject: Changes to Washington Real Estate Excise Tax

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Washington levies a real estate excise tax ("REET") on all property sales, unless the sale qualifies for an exemption from the tax, as well as transfers of controlling interests (50% or more) in entities that own property in the Washington (RCW Chapter 82.45). This state tax rate is currently a flat 1.28% of a property's full selling price.

A locally-imposed tax is also authorized, although the rate differs by population size and whether the city or county is planning under the Growth Management Act ("GMA"). All cities are allowed to levy a 0.25% tax on property sales, while cities and counties that are planning under the GMA may levy an additional 0.25% tax.

The 2019 Washington Legislature, in ESSB 5998, passed significant changes to the REET, which will take effect on January 1, 2020. As of that date, the REET will move from a flat to a graduated rate as follows:

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

Timberland and agricultural land, however, are exempt from the new graduated rates and remain fixed at 1.28% at the state level.

The following examples of how the new REET will work in practice have been provided by the Washington Department of Revenue ("DOR"):

Example A:

If the total sale price is \$600,000, then the first \$500,000 is taxed at 1.10%. The remaining \$100,000 is taxed at 1.28%.

$\$500,000 \times 1.10\% =$	\$5,500
$\$100,000 \times 1.28\% =$	\$1,280
Total taxes	\$6,780

Example B:

If the total sale price is \$4.4 million, then the first \$500,000 is taxed at 1.10%. The next \$1 million is taxed at 1.28%. The next \$1.5 million is taxed at 2.75% and the final \$1.4 million is taxed at 3%.

$\$500,000 \times 1.10\% =$	\$5,500
$\$1,000,000 \times 1.28\% =$	\$12,800
$\$1,500,000 \times 2.75\% =$	\$41,250
$\$1,400,000 \times 3\% =$	\$42,000
Total taxes	\$101,550

In addition, the new law extends the lookback period for sales of controlling interests (50% or more) in an entity owning Washington real property. Currently, the REET is triggered when a controlling interest is transferred to another party within a 12-month period; that is, if one owner sells a 25% interest on January 1 and another owner sells a 25% interest on December 31 of the same year, and the parties were acting in concert in connection with a related transaction, then REET is triggered as to both sales on December 31.

Under the new law, however, the lookback period for controlling-interest transfers is extended to 36 months. Under the earlier example, the REET would be triggered if the second sale occurred as late as December 31 almost three years later. In anticipation that business owners will try to structure transactions to avoid paying the REET, the Legislature directed the DOR to disregard the form of the transaction or series of transactions and look to the substance of the overall deal to determine REET liability. No rulemaking guidance has yet been provided by the DOR on this issue.

Finally, even if there is no REET required on the sale of a business interest, the new law may require reporting. Any transfer of one-sixth or more (16.67%) of a Washington property-owning entity triggers a reporting requirement. If the report isn't filed and REET is ultimately triggered, then the entity is liable for the REET plus a 50% evasion penalty.

For more information regarding REET, visit <https://dor.wa.gov/find-taxes-rates/other-taxes/real-estate-excise-tax> and <http://lawfilesext.leg.wa.gov/biennium/2019-20/Pdf/Bills/Session%20Laws/Senate/5998-S.SL.pdf>.

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**The Agent may be held responsible for any loss sustained as a result of the failure to follow the standards set forth above.**