STATE TAXATION OF LONG-TERM CAPITAL GAIN DISTRIBUTIONS MADE BY RICS TO INDIVIDUAL SHAREHOLDERS

I. No Income Tax

These jurisdictions have no tax on capital gain distributions (8 states).

Alaska	South Dakota
Florida	Texas
New Hampshire	Washington
Nevada	Wyoming

II. Favorable Rates

The following are states that provide, generally either by means of an exclusion or a rate differential, a more favorable rate for capital gain distributions than for ordinary income.

- **Arkansas** – Beginning on and after July 1, 2016, there is a 50% exclusion of net long-term capital gains. The amount of net capital gain in excess of ten million dollars ($10,000,000) from a gain realized on or after January 1, 2014 is exempt from tax. Arkansas Code 26-51-815.

- **Arizona –** A subtraction from Arizona gross income was added for any net long-term capital gain that is derived from an asset acquired after December 31, 2011. The subtraction is 10% for calendar year 2013, 20% for calendar year 2014, and 25% for 2015 and after. See A.R.S. § 43-1022(26).

- **Colorado** – For the fiscal year beginning in calendar year 1998, "Colorado source" capital gains may be excluded from federal taxable income. Qualifying capital gains include capital gains (1) earned on real or tangible personal property located within Colorado at the date of sale, or (2) earned on the sale of stock or on the sale of an ownership interest in a "Colorado company, limited liability company ('LLC'), or partnership," where such property, stock or ownership interest was acquired on or after May 9, 1994, and has been owned by the taxpayer for an uninterrupted period of time beginning on or after June 1, 1994 of at least five years prior to the date of the transaction from which the capital gain arose. To determine whether a company is a Colorado company, LLC or partnership, taxpayers must contact that company to determine whether it meets the definition. *See* C.R.S. 39-22-518; FYI Income 15 at www.taxcolorado.com.

For the fiscal years beginning in calendar years 1999 and 2000, the rules above apply but the requirement that the assets be acquired after May 9, 1994 is removed, HB00-1209, C.R.S. 39-22-518(2)(b)(I)(C) and (D) apply, as fiscal year revenues did exceed spending limits by $260 million in FY99 and $430 million in FY00.

For the fiscal year beginning in calendar year 2001, the change for calendar years 1999 and 2000 above and another change allowing just a one year but less than five year holding period apply, as revenues did exceed spending limitations by $430,000,000 for fiscal year ending 6/30/2001.

For a fiscal year beginning in calendar years 2002 through 2010, only Capital Gains included in paragraph 1 above qualify for the exclusion. The expanded exclusions in paragraphs 2 & 3 will not be available due to the lack of a budget surplus.

Beginning on and after January 1, 2010, the deduction applies only to real property or tangible personal property located in Colorado and acquired after May 9, 1994 but before June 4, 2009, or to tangible personal property only located wither inside or outside Colorado and acquired on or after June 4, 2009; owned by the taxpayer for a holding period of at least five years prior to the date of the transaction giving rise to the capital gains; and the date of the transaction giving rise to the capital gains occurred on or after January 1, 2010.

- **Hawaii** – maximum rate of 7.25%. See section 235-51(f), HRS.

- **Louisiana** – Louisiana taxes capital gains at the ordinary income tax rates of 2%, 4%, and 6%. An individual income tax deduction is provided by La. R.S. 47:293(9)(a)(xvii) for certain net capital gains. The deduction is for net capital gains resulting from the sale or exchange of an equity interest in or substantially all of the assets of a nonpublicly traded corporation, partnership, limited liability company, or other business organization commercially domiciled in Louisiana.

  To qualify for the deduction, the equity interest or assets must have been held by the taxpayer for a minimum of five years immediately prior to the sale or exchange.

  The amount of the deduction is further subject to the following limitations:
  - For the sale or exchange of an equity interest or substantially all of the assets of an entity domiciled in the state for five years or greater, but less than ten years, prior to the sale or exchange, the capital gains deduction shall be fifty percent.
  - For the sale or exchange of an equity interest or substantially all of the assets of an entity domiciled in the state for ten years or greater, but less than fifteen years, prior to the sale or exchange, the capital gains deduction shall be sixty percent.

- For the sale or exchange of an equity interest or substantially all of the assets of an entity domiciled in the state for fifteen years or greater, but less than twenty years, prior to the sale or exchange, the capital gains deduction shall be seventy percent.
- For the sale or exchange of an equity interest or substantially all of the assets of an entity domiciled in the state for twenty years or greater, but less than twenty-five years, prior to the sale or exchange, the capital gains deduction shall be eighty percent.
- For the sale or exchange of an equity interest or substantially all of the assets of an entity domiciled in the state for twenty-five years or greater, but less than thirty years, prior to the sale or exchange, the capital gains deduction shall be ninety percent.
- For the sale or exchange of an equity interest or substantially all of the assets of an entity domiciled in the state for thirty years or greater, the capital gains deduction shall be one hundred percent.

- **Massachusetts*** – Effective May 1, 2002, the rate on capital gains as follows: (1) assets held for less than one year are taxed at a rate of 12%, (2) assets held for more than one year will be taxed at a rate of 5%. See, G.L. c.62, sections 2(b)(3), 4(a), 4(b) and 4(c).

  A statutory amendment enacted on December 8, 2005, delays the effective date of the 2002 capital gains tax rate increase from April 30, 2002, to tax years beginning on or after January 1, 2003. *See* TIR 05-20, DD 06-2.

- **Montana** – An individual income taxpayer is allowed a credit against taxes equal to 2% of the taxpayer's net capital gains income. In effect, this reduces the state's top marginal income tax rate of 6.9% to 4.9% on capital gains income.

- **North Dakota** – An exclusion equal to 40 percent is allowed for a net long-term capital gain reportable to North Dakota.

- **South Carolina*** – 44% exclusion of net capital gain

- **Utah** – For 2021, Utah provides a nonrefundable 4.95~~5~~% income tax credit for capital gains (short or long-term) if at least 70% of the proceeds of the capital gain transaction are used to purchase stock in a qualified Utah small business corporation within 12 months from when the gain was recognized; provided, the taxpayer did not have any ownership interest in the Utah small business corporation prior to or at the time of investment. See Utah Code Ann. § 59-10-1022.

- **Vermont –** Vermont allows an exclusion of either the first $5,000 of Adjusted Net Capital Gain Income or 40% of Adjusted Net Capital Gain Income (as defined in § 1(H) of the Internal Revenue Code.) from the sale of eligible assets held by the taxpayer for more than three years. The total amount of decrease under the law cannot exceed 40% of federal taxable income or $350,000, whichever is less. See 32 VSA § 5811(21)(B) and Vermont Department of Taxes Technical Bulletin #60 for further detail.

- **Wisconsin*** – 30% exclusion (60% in the case of farm assets) for long-term capital gains.

III. Ordinary Income Rates

States that tax capital gain distributions at ordinary income rates (36 states and the District of Columbia).

Alabama	Iowa	Nebraska	Tennessee
Arizona*	Kansas	New Jersey*	Utah
Arkansas*	Louisiana	North Carolina	Virginia*
California*	Maine	Ohio	West Virginia
Connecticut*	Maryland	Oklahoma*	Wisconsin
District of Columbia	Massachusetts*	Oregon*	
Delaware	Michigan	Pennsylvania*	
Georgia	Minnesota	Rhode Island*	
Idaho	Missouri	South Carolina	

~~Alabama~~	~~Iowa~~	~~Nebraska~~	~~Utah~~
~~Arizona*~~	~~Kansas~~	~~New Jersey*~~	~~Virginia*~~
~~California*~~	~~Kentucky~~	~~New York~~	~~West Virginia~~
~~Colorado~~	~~Louisiana~~	~~North Carolina~~	~~Wisconsin*~~
~~Connecticut*~~	~~Maine~~	~~Ohio~~	
~~District of Columbia~~	~~Maryland~~	~~Oklahoma*~~	
~~Delaware~~	~~Massachusetts*~~	~~Oregon*~~	
~~Georgia~~	~~Michigan*~~	~~Pennsylvania*~~	
~~Idaho~~	~~Minnesota~~	~~Rhode Island*~~	
~~Illinois~~	~~Mississippi~~	~~South Carolina*~~	
~~Indiana~~	~~Missouri~~	~~Tennessee~~	

* State-specific information begins on page 3-5.

SURVEY 3

STATE-SPECIFIC INFORMATION

Arizona

Arizona net long-term capital gains purchased prior to January 1, 2012 are taxed at ordinary income tax rates. Arizona net long-term capital gains acquired after December 31, 2011 are eligible for a 25% tax subtraction.

Arkansas

Arkansas taxes capital gain distributions at ordinary income rates. However, there is a 50% exclusion of net long-term capital gains. The amount of net capital gain in excess of ten million dollars ($10,000,000) is exempt from tax (Arkansas Code Ann. 26-51-815).

California

Capital gains distributions by RICs are treated the same as such distributions are treated for federal purposes, and are thus first netted against capital losses. Any remaining net capital gain is taxed at ordinary income rates, as California has no preferential rate for capital gains. In addition, California has not adopted the federal treatment of undistributed capital gains from RICs (current inclusion in the shareholder's gross income accompanied by a tax credit for taxes paid by the RIC on such amount), so that such amounts are not taxable by California until actually distributed by the RIC.

An exception for small business stock was repealed as of January 1, 2016. (Stats 2013, ch 546 (AB 1412).)

Connecticut

For purposes of the Connecticut income tax, capital gain distributions by RICs to individual shareholders are taxed as ordinary income.
For purposes of the Connecticut pass-through entity tax, capital gains distributions by RICs to pass-through entity shareholders are taxed as ordinary income at the highest marginal rate of 6.99%. Conn. Gen. Stat. § 12-699~~2018 Conn. Pub. Acts 49, § 1.~~

For taxable years commencing on or after January 1, 2015, the income tax rates are 3%, 5%, 5.5%, 6%, 6.5%, 6.9% and 6.99%. Conn. Gen. Stat. §12-700~~, as amended by 2015 Conn. Pub. Acts 244, §66~~.

Idaho

Effective January 1, 2021~~18~~, the top individual income tax rate and the corporate income tax rates have been reduced to 6.~~925~~5% from ~~7.4~~6.925%.

Massachusetts

Assets held longer than one year are taxed at the ordinary personal income tax rate of 5%. In calculating the holding period for a long-term gain, property acquired prior to January 1, 1996, shall be deemed to have been acquired on

January 1, 1995, or on the date of actual acquisition, whichever is later. *See* M.G.L. c. 62, section 2(b)(3); M.G.L. c. 62, section 4(b).

Michigan

For income tax purposes, capital gains on the sale of U.S. obligations may be deducted, to the extent included in federal adjusted gross income, in determining Michigan taxable income. Other capital gains are taxed at the state flat rate in effect for the year gain is included in adjusted gross income.

New Jersey

New Jersey permits pass-through treatment for investment funds. Distributions attributable to all gains or losses earned on federal and New Jersey exempt obligations are exempt from New Jersey income tax, regardless of whether the fund is a qualified investment fund. New Jersey treats income from undistributed capital gains from RICs as recognized and reported in the same year as for federal income tax purposes.

New Mexico

Taxpayers may deduct from net income the greater of: (1) net capital gain income, not to exceed $1,000; or (2) a percentage of net capital gain income as follows:

For a taxable year beginning in 2003	10%
For a taxable year beginning in 2004	20%
For a taxable year beginning in 2005	30%
For a taxable year beginning in 2006	40%
For a taxable year beginning in or after 2007	50%

A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the deduction that would have been allowed on the joint return. A taxpayer may not claim this deduction if the taxpayer has claimed the credit provided in Section 7-2D-8.1 (related to qualified diversifying business net capital gains). N.M. Stat. Ann. § 7-2-34.

Oklahoma

Oklahoma capital gains are exempt from state income tax. For taxable years beginning after December 31, 2004, a deduction from the Oklahoma adjusted gross income of any individual taxpayer shall be allowed for "qualifying gains receiving capital treatment," which means the amount of net capital gains, defined in Section 1222(11) of the Internal Revenue Code, included in an individual's federal income tax return that was:

(1) earned by the individual taxpayer on real or tangible personal property located within Oklahoma that has been owned by the individual taxpayer for a holding period of at least five (5) years prior to the date of the transaction from which such net capital gains arise, or

(2) earned on the sale of stock or on the sale of an ownership interest in an Oklahoma company, limited liability company, or partnership where such stock or ownership interest has been owned by the individual taxpayer for a holding period of at least three (3) years prior to the date of the transaction from which the net capital gains arise.

"Holding period" means an uninterrupted period of time.

"Oklahoma company," "limited liability company," or "partnership" means an entity whose primary headquarters have been located in Oklahoma for at least (3) uninterrupted years prior to the date of the transaction from which the net capital gains arise.

Oregon Oregon has a special reduced 5% tax rate for capital gains on farm liquidations only.

Pennsylvania For Pennsylvania tax purposes, the capital gains of a RIC are not set apart in computing the entity's earnings and profits nor may a RIC elect conduit treatment with respect to its net long-term capital gain. Thus, capital gain dividends are not recognized as such nor does a shareholder include in income undistributed long-term capital gain. For state income tax purposes, the Pennsylvania statute makes no distinction between capital gain dividends, whether short-term or long-term, and ordinary dividends. Capital gain dividends are reportable as ordinary dividends on the Pennsylvania tax return if they represent distributions out of earnings and profits and as a return of capital if not.

Rhode Island The Rhode Island General Assembly passed legislation to tax all capital gains income at the same rates as ordinary income for assets sold on or after January 1, 2010. Rhode Island General Law 44-30-2.6(c)(2)(A) and 44-30-2.7.

South Carolina There is a deduction from South Carolina taxable income equal to 44% of the net capital gain, as defined in Internal Revenue Code section 1222 and related sections, recognized in South Carolina.

Tennessee Any portion of any distribution of a RIC derived from capital gains on federal obligations is exempt from tax.

Washington Beginning January 1, 2022, a 7% capital gains excise tax is imposed on the sale or exchange of long term capital assets including stock, bonds and other capital assets where profits exceed $250,000 annually. The tax is imposed on adjusted federal long term capital gains for sales or exchanges, with Washington adjustments. Washington's capital gain tax is an excise tax, not an income tax, and is imposed under Chapter 82.87 RCW. Only individuals are subject to payment of the tax. Exempt assets are qualified family owned businesses; residential and other real property; and retirement accounts. Exemptions also include timber or receipt of capital gains as dividends or distributions from real estate investment trusts derived from sale or exchange of timber; depreciable property under IRC Section 167(a)(1) or property that qualifies for expensing under IRC Section 179; and commercial fishing privileges. A standard deduction for Washington capital gains is $250,000 whether for an individual or joint filer. For additional information see ESSB 5096 2021-2022.

Wisconsin Wisconsin taxes capital gains at the ordinary income tax rates. However, an exclusion is allowed of 30% (60% for farm assets) for long-term capital gains.