

State should make state income-tax ban crystal clear

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Lawmakers in Washington should let the people vote on a constitutional amendment making our state's ban on an income tax crystal clear and guard it from being overturned by a surprise court ruling that ignores past precedents.

By [Jason Mercier](#)
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HOW important are five votes out of 7 million Washingtonians? The vote of just five state Supreme Court justices could be the difference between Washington losing its competitive advantage — having no state income taxes — and the eight decades of legal precedent preventing these types of taxes.

First, some context: Washington is one of just nine states without an income tax. The significance of this can be found on the state Department of Commerce's "[Choose Washington](#)" website, which boasts, "We offer businesses some competitive advantages found in few other states. This includes no personal or corporate income tax."

So what does this have to do with the state's courts?



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Since the 1930s, the Washington State Supreme Court has issued numerous opinions interpreting Article 7, sections 1 and 2 of the state constitution to require taxation of property, which includes income, to be uniform and limited to a rate of 1 percent.

While there is no ban on a uniform income tax of 1 percent, 80 years of legal precedents show that a graduated or targeted income tax that treats people with different income levels differently is considered unconstitutional in Washington.

One such example is occurring this year in Olympia with efforts to put a local income tax on the ballot.”

Officials at the state Department of Revenue agree that Washington has a ban on a graduated income tax, and they are not certain the “current court,” as they put it, would still hold a graduated income-tax law unconstitutional.

This is why there has been an ongoing effort by income-tax supporters to find a legal test case. One such example is occurring this year in Olympia with efforts to put a local income tax on the ballot. Recognizing the proposal violated state law, the Olympia City Council requested an injunction to keep the proposal off this year’s November ballot. The city told the court: “The Legislature has expressly forbidden cities from imposing a tax on net income.” Thurston County Superior Court recently agreed and ruled to keep the local income tax off the ballot.

Based on the very clear ban in state law on local income taxes, this decision was not a surprise. Shockingly, however, an appeals court commissioner stayed the ruling pending full appeal, meaning the Olympia proposal is back on the ballot. Meanwhile, the city of Olympia will be seeking further review from the full appeals court.

So why the new focus for a city income tax?

The “city-shopping” strategy to force a legal test case is due to the consistent and overwhelming failure to impose an income tax at the state level. In fact, the last nine times state voters have been asked to adopt an income tax, they have resoundingly said “no” (1934, 1936, 1938, 1942, 1944, 1973, 1975, 1982 and 2010).

Interestingly, three of those rejected income-tax proposals were dedicated to education spending (1973, 1975 and 2010). Two sales-tax-increase proposals earmarked for education have also been rejected by voters (2004 and 1989).

Regardless of what happens with the city of Olympia income-tax proposal, income-tax supporters will also probably continue to focus efforts at the state level (most likely with proposals for a capital-gains tax).

Whether Washington has an income tax should be completely taken out of the court’s hands. This is exactly what happened recently in Tennessee.

In Tennessee, lawmakers wanted to make sure citizens and businesses could have the peace of mind that imposition of a state income tax was not just one legislative session away. They asked voters to approve a constitutional amendment banning income taxes. The sponsor of the 2014 Tennessee income-tax ban explained: “This is going to help us bring in jobs to Tennessee. We can say, ‘not only do we not have an income tax, but we’ll never have an income tax.’”

In 2014, the proposal was approved with 66 percent of the vote and Tennessee’s constitutional provision banning a state income tax went into effect.

Lawmakers in Washington should also let the people act on a constitutional amendment making our state’s ban on an income tax crystal clear and guard it from being overturned by a surprise court ruling that ignores past precedents. Judging from past elections, Washingtonians clearly oppose a state income tax, and a proposed ban would probably pass.

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