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CITIZEN ACTION DEFENSE FUND FILES PETITION WITH LEGISLATIVE COMMITTEE CHALLENGING PROPOSED RULE IMPLEMENTING UNCONSTITUTIONAL TAX

Government Watchdog Nonprofit Petitions the Joint Administrative Rules Review Committee to review the statutory authority of the Department of Revenue's proposed rule on the Capital Gains Income Tax

Olympia, Washington State— OCTOBER 20, 2022 —Today Citizen Action Defense Fund (CADF) sent a petition in the form of a letter to the chair of the Joint Administrative Rules Review Committee (JARRC) of the Washington Legislature challenging the statutory authority of a proposed rule put forward by the Department of Revenue. The committee has jurisdiction under the state Administrative Procedures Act to review whether proposed rules are consistent with the law. The Department's proposed rule implements the capital gains income tax that was struck down as unconstitutional by a trial court earlier this year. The case is on appeal to the state supreme court which has not yet set a date for argument. Because the state did not ask to stay the lower court ruling, the statute is void.

"The problem for the Governor and his Dept of Revenue is that these sections of law no longer exist. . ." CADF Executive Director Jackson Maynard notes in the letter. "It now falls to JARRC to determine if these void provisions are still to be considered part of the intent of the legislature and 'applicable' to the adoption of the rule. If not, the agency is without authority and the committee should inform it as required [by law]."

JARRC has thirty days from receipt of the petition to respond. The petition includes a cease and desist letter CADF sent to DOR on this issue earlier this month and the Department's response.

"The Department claimed that their proposed rule to collect the capital gains income tax is just 'guidance' and won't be implemented until a court of final jurisdiction has ruled." Maynard stated "But actions speak louder than words. If the Department is planning to wait, why does its website say the final rule will be adopted later this year? Why does the proposed rule say the tax is due April 17 of next year? Why is DOR asking for money to upgrade its computers to collect the tax in 2023? None of this makes sense if the proposed rule is just guidance."

“Everybody understands that you can’t just ignore court rulings that you disagree with. The Governor and his Department of Revenue are doing exactly that. This petition we filed with JARRC today is but one step in the process to get further review of the agency’s actions here.” Maynard said.

Citizen Action Defense Fund is an independent, nonprofit organization based in Washington state that supports and pursues strategic, high-impact litigation in cases to advance free markets, restrain government overreach or defend constitutional rights. The government watchdog nonprofit files lawsuits, represents affected parties and intervenes in cases when the state enacts laws that violate the state or federal constitutions, when government officials take actions that infringe upon the First Amendment or other constitutional rights, or when agencies promulgate rules in violation of state law.

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