

No. 100769-8

SUPREME COURT OF THE STATE OF WASHINGTON

CHRIS QUINN, *et al.*,
Respondents,

v.

STATE OF WASHINGTON, *et al.*,
Appellants,

APRIL CLAYTON, *et al.*,
Respondents,

v.

STATE OF WASHINGTON, *et al.*,
Appellants,
EDMONDS SCHOOL DISTRICT, *et al.*,
Intervenors.

**MOTION FOR LEAVE TO FILE BRIEF *AMICI CURIAE*
OF THE NATIONAL TAXPAYERS UNION
FOUNDATION, WASHINGTON POLICY CENTER, TAX
FOUNDATION, GREGORY R. EVANS, RANDALL G.
HOLCOMBE, JEREMY HORPEDAHL, JUSTIN M.
ROSS, AND WILLIAM F. SHUGHART II
("TAX ECONOMISTS & POLICY ANALYSTS")
IN SUPPORT OF RESPONDENTS**

Joseph Henschman (D.C. Bar #985625)
NATIONAL TAXPAYERS UNION FOUNDATION
122 C Street N.W., Suite 700
Washington, DC 20001
Telephone: (703) 683-5700
jbh@ntu.org
Counsel for Amici Curiae
December 12, 2022

MOTION FOR LEAVE TO FILE AS *AMICI CURIAE*

Pursuant to Rule of Appellate Procedure 10.6(b), the following entities seek leave to file the attached brief as *amici curiae* in this case:

- National Taxpayers Union Foundation (NTUF) provides crucial, impactful research on fiscal issues and NTUF's Taxpayer Defense Center advocates for taxpayers in the courts. NTUF Executive Vice President Joe Bishop-Henchman authored a 2013 book on the definition of taxes, *How Is the Money Used? Federal and State Cases Distinguishing Taxes and Fees*.
- Washington Policy Center (WPC) is an independent, non-profit think tank that promotes sound public policy based on free-market solutions. WPC's Center for Government Reform has actively researched the topic of capital gains income taxes.
- Tax Foundation is an independent 501(c)(3) nonprofit that informs smarter tax policy at the federal, state, and global

levels. Adam Hoffer is the Director of Excise Tax Policy at the Tax Foundation in Washington, D.C., and the co-editor of *For Your Own Good: Taxes, Paternalism, and Fiscal Discrimination in the Twenty-First Century*. Jared Walczak is Vice President of State Projects at the Tax Foundation and the author of numerous studies on excise taxes.

- Gregory R. Evans is an adjunct professor at Marquette University, among other schools. His research has been published in *The Journal of Wealth Management*, *Public Personnel Management*, *VOLUNTAS: International Journal of Voluntary and Nonprofit Organizations*, and *The Journal of Nonprofit Education and Leadership*.
- Randall G. Holcombe is DeVoe Moore Professor of Economics at Florida State University, a Senior Fellow at the James Madison Institute and the Independent Institute, and a Research Fellow at George Mason University's Law & Economics Center.

- Jeremy Horpedahl is an associate professor of economics at the University of Central Arkansas and Director of the Arkansas Center for Research in Economics. His research has been published in *Econ Journal Watch*, *Constitutional Political Economy*, the *Atlantic Economic Journal*, *Public Choice*, and *Public Finance and Management*.
- Justin M. Ross is professor of public economics in Indiana University's Paul H. O'Neill School of Public & Environmental Affairs. His research has been featured in the *National Tax Journal*, *Journal of Public Economics*, *Public Finance Review*, and *Public Budgeting & Finance*.
- William F. Shughart II is J. Fish Smith Professor in Public Choice at Utah State University's Jon M. Huntsman School of Business. He is editor-in-chief of *Public Choice*, immediate past president of the Public Choice Society, and research director of the Independent Institute.

Collectively, *Amici* have decades of experience in tax and economic policy. They will provide this Court with a holistic view of the difference between excise taxes and income taxes in case law and economic impact. They bring together knowledge of how other jurisdictions define these key terms and what the expectation of legislative use of the terms means for citizens that is distinct from the parties' briefing in this case. This team of tax economists and policy analysts provided key help to the Court below, even earning divided argument time to help define the terms of art. They offer the same expertise to this Court through this filing.

WHEREFORE, for the foregoing reasons, *Amici Curiae* seek leave to file the attached brief.

This document contains 547 words, excluding the parts of the document exempted from the word count by Rule of Appellate Procedure 18.17.

Respectfully submitted,

s/ Joseph Henchman

Joseph Henchman (D.C. Bar #985625)

NATIONAL TAXPAYERS UNION FOUNDATION

122 C Street N.W., Suite 700

Washington, DC 20001

Telephone: (703) 683-5700

jbh@ntu.org

Counsel for Amici Curiae

Dated:

December 12, 2022

CERTIFICATE OF SERVICE

I hereby certify that I caused the foregoing Motion for Leave to File Brief *Amici Curiae* of National Taxpayers Union Foundation, Washington Policy Center, Tax Foundation, Gregory R. Evans, Randall G. Holcombe, Jeremy Horpedahl, Justin M. Ross, and William F. Shughart II to be served on counsel for all parties in this matter via the Court's e-filing platform.

Dated 12th day of December, 2022.

s/ Joseph Henschman

Joseph Henschman
Counsel for Amici Curiae