

## SJR 8204: Prohibiting a personal state or local income tax by amending the state constitution

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### Key Findings

1. **Washington is one of nine states that currently do not impose an income tax.**
2. **Washington state voters have rejected an income tax nine times.**
3. **Under a 1933 state Supreme Court ruling, imposing a graduated income tax in Washington would require a constitutional amendment.**
4. **In recent years, however, supporters of imposing an income tax have been seeking to find a test case in the belief that today's state supreme court would overturn established case law and allow a graduated income tax without a constitutional amendment.**
5. **SJR 8204 would take this tax policy decision out of the hands of five justices and make it crystal clear that our state constitution does not allow a personal income tax.**

### Introduction

Washington is one of nine states that currently do not impose an income tax. The importance of this policy to our state can be found on the state Department of Commerce's "[Choose Washington](#)" website that is used to promote the state to businesses. Commerce officials boast, "We offer businesses some competitive advantages found in few other states. This includes no personal or corporate income tax."<sup>1</sup>

Under a 1933 state Supreme Court ruling, imposing a graduated income tax in Washington would require a constitutional amendment. In recent years, however, supporters of imposing an income tax have been seeking to find a test case in the belief that today's state supreme court would overturn established case law and allow a graduated income tax without a constitutional amendment. SJR 8204 would take this tax policy decision out of the hands of five justices and make it crystal clear that our state constitution does not allow a personal income tax.

### Text of SJR 8204

SJR 8204 would add the following to the state constitution:

*"No state or local tax may be imposed on individual income derived from wages, investments, the sale of goods or services, or any other source; however, nothing in this article prohibits the modification of any state or local tax or fee authorized as of January 1, 2017."<sup>2</sup>*

1 "Choose Washington" - no capital gains taxes," By Jason Mercier, Washington Policy Center, March 3, 2015 at <http://www.washingtonpolicy.org/publications/detail/choose-washington-no-capital-gains-taxes>

2 "SJR 8204 - Amending the Constitution to prohibit the taxation of individual income , Washington State Legislature, January 27, 2017 at <http://app.leg.wa.gov/bill/summary?BillNumber=8204&Year=2017>

Along with making the state's current ban on graduated income taxes clear, SJR 8204 would remove the threat of a flat one percent income tax that is currently allowed under the 1933 ruling. Also notable is that SJR 8204 focuses on individual income and not business income. This means that adoption of flat one percent corporate income tax would still be allowed.

### Income tax vote history in Washington

Washington state voters have rejected an income tax nine times (in 1934, 1936, 1938, 1942, 1944, 1973, 1975, 1982, and 2010).<sup>3</sup> Interestingly, proponents of three of those rejected income tax proposals said money from the tax would be dedicated to education spending (in 1973, 1975, and 2010).

A local income tax proposal in Olympia was just rejected in November 2016, the first time in two decades a tax increase has failed in the city.<sup>4</sup> What made the Olympia income tax proposal noteworthy was the explicit acknowledgement by its supporters that their real goal was to create a test case to see if today's state supreme court would rule to repeal Washington's graduated income tax ban.<sup>5</sup> Similar concerns relate to recent proposals for a capital gains income tax (none of the states without an income tax impose a tax on capital gains income).

### SJR 8204 follows the recent lead in Tennessee

SJR 8204 is designed to take the policy question of whether Washington should impose an income tax 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."<sup>6</sup> In 2014, the proposal was approved with 66% of the vote and Tennessee's constitutional provision banning a state income tax went into effect.

### Conclusion

Lawmakers in Washington should send SJR 8204 to the voters so the people can make our state's ban on an income tax crystal clear and guard it from being overturned by a surprise court ruling that ignores well-established legal precedents. Judging from nine past elections, Washingtonians clearly oppose a state income tax and SJR 8204 would allow the voters to ensure the state remains income tax free, to maintain what state officials say is one of our important "competitive advantages found in few other states."

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3 "History of income tax votes in Washington," by Jason Mercier, Washington Policy Center, October 17, 2016 at <http://www.washingtonpolicy.org/publications/detail/history-of-income-tax-votes-in-washington>

4 "Tax-friendly Olympia voters defy expectations by rejecting initiative," by Andy Hobbs, *The Olympian*, December 20, 2016 at <http://www.theolympian.com/news/local/article122085014.html>

5 "Citizens' Guide to Olympia Measure 1, to create a local income tax to fund a college grant program," by Jason Mercier, Washington Policy Center, October 25, 2016 at <http://www.washingtonpolicy.org/publications/detail/citizens-guide-to-olympia-measure-1-to-create-a-local-income-tax-to-fund-a-college-grant-program>

6 "Tennessee Income Tax Prohibition, Amendment 3 (2014)," Ballotpedia, at [https://ballotpedia.org/Tennessee\\_Income\\_Tax\\_Prohibition,\\_Amendment\\_3\\_\(2014\)](https://ballotpedia.org/Tennessee_Income_Tax_Prohibition,_Amendment_3_(2014))