

POLICY NOTE

Initiative 1491, to ban state and local income taxes in Washington

By Jason Mercier, Director, Center for Government Reform

November 2022

Key Findings

1. Initiative 1491 is an initiative to the legislature that would re-enact a ban on elected officials imposing an income tax at the state or local level.
2. If the measure gains enough signatures lawmakers can adopt it next session, propose an alternative or take no action.
3. If lawmakers do not pass the initiative it will be placed on the November 2023 ballot, possibly with an alternative.
4. For decades Washington had a non-controversial local income tax ban law until it was overturned by an appeals court in 2019.
5. An income tax ban clearly reflects the popular will in Washington. Since the 1930s, voters have rejected income tax ballot proposals by wide margins 10 times.
6. Lawmakers could also re-enact the non-controversial 1984 state law, or refer SJR 8204 to voters to place an income tax ban in the state constitution

Introduction

A group of concerned citizens called Let's Go Washington is gathering signatures for a proposed people's initiative to the legislature, Initiative 1491, which would ban state and local officials from imposing an income tax.¹

Initiative sponsors need to collect 324,516 valid signatures (8% of the votes cast in the last election for governor) to submit Initiative 1491 for consideration in the 2023 legislative session. The signatures must be received by the Secretary of State's office by December 31, 2022.²

If the measure qualifies lawmakers have three choices:³

- They can enact the initiative into law as is (the governor's signature is not required);
- They can take no action in which case the initiative is forwarded to voters on the November 2023 ballot. If voters approve the initiative it becomes law;
- They can pass their own alternative version, in which case both versions, the original and the legislature's, will appear on the November 2023 ballot. Voters will first decide if either version should become law and, if so, indicate on the same ballot which one should pass.

Text of Initiative 1491

Initiative 1491 would re-instate a non-controversial ban on local income taxes that had been in place for decades, while also prohibiting a state income tax. In 1984 the legislature adopted a local income tax ban, but it was overturned 35 years later, in 2019, by the state Court of Appeals because the original bill allegedly violated single subject restrictions.⁴

1 "I-1491, Repeal the Capital Gains Tax," The Initiatives, Let's Go Washington, accessed October 24, 2022, at <https://letsgowashington.com/initiatives/>.

2 "Initiatives and Referenda Handbook – 2022," Elections Division, Office of the Secretary of State, Washington State, accessed October 20, 2022, at https://www.sos.wa.gov/_assets/elections/initiatives/initiative-and-referenda-handbook-2022.pdf.

3 Ibid.

4 "Good news, bad news on local income taxes," by Jason Mercier, blogpost, Washington Policy Center, blogpost, July 16, 2020, at <https://www.washingtonpolicy.org/publications/detail/good-news-bad-news-on-local-income-taxes>.

Initiative 1491 would reimpose this local income tax ban, repeal the recently enacted capital gains income tax, and enact a prohibition on a state income tax.⁵

Here is the official ballot title and summary for Initiative 1491:⁶

Ballot Title

“Initiative Measure No. 1491 concerns taxes. This measure would prohibit the state and local governments from imposing or collecting taxes it describes as ‘based on an individual’s personal income,’ and repeal a tax on sales of certain capital assets. Should this measure be enacted into law?”

Ballot Measure Summary

“This measure would prohibit the state, counties, cities, and port districts from imposing or collecting taxes it describes as ‘based on an individual’s personal income,’ construed broadly. The prohibition applies to taxes imposed on taxpayers or on taxpayers’ employers and whether called income, payroll, or excise taxes. It would repeal a tax imposed on the sale or exchange of certain long-term capital assets by individuals who have annual capital gains of over \$250,000, with exemptions.”

Numerous local income tax bans in Washington

In response to the state Court of Appeals ruling to overturn the state’s long-standing law banning local income taxes, elected officials in at least 28 cities and counties have enacted a ban on imposing a personal income tax.

These include 12 counties: Asotin, Benton, Chelan, Cowlitz, Douglas, Franklin, Grant, Kittitas, Lincoln, Spokane, Whitman and Yakima. The group includes 16 cities: Battle Ground, Benton City, DuPont, Grand Coulee, Granger, Kennewick, Liberty Lake, Longview, Moses Lake, Pasco, Richland, Spokane, Spokane Valley, Union Gap, West Richland and Yakima.⁷

Most of these local income tax bans have been adopted by elected officials. In Spokane residents enacted the ban as an amendment to the city charter in 2019 by a vote of 73% to 27%.⁸

For nearly 100 years, the state Supreme Court has ruled that Washingtonians own their income, meaning it is property. This is why a graduated income tax (non-

5 “Initiative No. 1491, No taxes based on an individual’s personal income,” Initiative Full Text, The Initiatives, Let’s Go Washington, accessed October 24, 2022, at <https://letsgowashington.com/i-1491/> and “Initiative Measure No. 1491,” Office of the Secretary of State, Washington State, April 16, 2022, at https://www.sos.wa.gov/_assets/elections/initiatives/finaltext_2674.pdf.

6 “Initiative 1491, Ballot Title and Ballot Measure Summary,” Office of the Attorney General, Washington State, May 3, 2022, at https://www.sos.wa.gov/_assets/elections/initiatives/ballottitleletter_2674.pdf.

7 “Whitman County adopts local income tax ban,” by Jason Mercier, blogpost, Washington Policy Center, March 23, 2022, at <https://www.washingtonpolicy.org/publications/detail/whitman-county-adopts-local-income-tax-ban>.

8 “Income tax bans pass big in Spokane and Texas,” by Jason Mercier, blogpost, Washington Policy Center, November 6, 2019, at <https://www.washingtonpolicy.org/publications/detail/income-tax-bans-pass-big-in-spokane-and-texas>.



Jason Mercier is the Director of the Center for Government Reform at Washington Policy Center and is based in the Tri-Cities. He has served on the boards of the Washington Coalition for Open Government and Verify More, and was an advisor to the 2002 Washington State Tax Structure Committee. Jason is an ex-officio member for the Tri-City Regional Chamber of Commerce and serves on the Chamber's government affairs committee. He worked with lawmakers in 2008 to create the state's renowned budget transparency website www.fiscal.wa.gov and has been a champion for many of the state's important budget reform tools including the four-year balanced budget requirement adopted in 2012. In 2010, former Governor Gregoire appointed Jason as WPC's representative on her Fiscal Responsibility and Reform Panel.

Washington Policy Center is an independent research organization in Washington state. Nothing here should be construed as an attempt to aid or hinder the passage of any legislation before any legislative body.

Published by
Washington Policy Center
© 2022

washingtonpolicy.org
206-937-9691

uniform and taxed at a rate of more than 1% of value) is unconstitutional in the state.⁹

State and local income taxes are unpopular

After adding the broadest definition of property in the country to the state constitution in the 1930s, Washington voters have since rejected constitutional amendments to change this definition and allow a graduated income tax. Voters have turned down a change in the constitution six times: In 1934 (57% no vote), 1936 (78% no vote), 1938 (67% no vote), 1942 (66% no vote), 1970 (68% no vote) and 1973 (77% no vote).

In addition, Washington residents have voted four times against proposed ballot measures to impose a state income tax: In 1944 (70% no vote), 1975 (67% no vote), 1982 (66% no vote) and 2010 (64% no vote).¹⁰

Although a graduated income tax is unconstitutional, a flat one percent income tax is currently permitted if passed by voters or the legislature. Initiative 1491 would ban this type of income tax at the state or local level.

Conclusion

Washington voters clearly do not want an income tax imposed at the state or local level. Since the 1930s, they have rejected ten straight income tax ballot measures (six proposed constitutional amendments and four proposed laws).

In addition, the legislature responded to the popular will by enacting a law in 1984 to ban the imposition of local income taxes. As an initiative to the legislature, when considering Initiative 1491 lawmakers could simply re-enact the law that existed from 1984 to 2019 to ban a local income tax.

Since a future legislature could repeal the state income tax ban proposed by Initiative 1491 with a simple majority vote, a constitutional amendment, such as the one proposed by SJR 8204 in 2017, would be more effective than a statutory restriction in carrying out the will of the people.¹¹

⁹ Washington's constitution has the broadest definition of property in the country, by Jason Mercier, blogpost, Washington Policy Center, August 28, 2022, at <https://www.washingtonpolicy.org/publications/detail/washingtons-constitution-has-broadest-definition-of-property-in-the-country>.

¹⁰ "Income tax ballot measures," Initiatives and Referenda, Elections Division, Office of the Secretary of State, Washington State, accessed October 24, 2022, at <https://www.sos.wa.gov/elections/research/income-tax-ballot-measures.aspx>.

¹¹ SJR 8204, "Amending the constitution to prohibit the taxation of individual income," introduced by Sen. Phil Fortunato (R-Auburn), Washington State Legislature, January 27, 2017, at <https://app.leg.wa.gov/billssummary?BillNumber=8204&Year=2017>.