

POLICY NOTE

Washington cities move to prohibit local income taxes

By Jason Mercier, Director, Center for Government Reform

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Key Findings

1. Seven Washington cities have already acted to ban a local income tax including Battle Ground, Granger, Kennewick, Moses Lake, Spokane, Spokane Valley and Union Gap. Yakima voters this November will consider a charter amendment to make their city the eighth to ban a local income tax.
2. Other cities should do the same and signal to citizens and businesses that they will protect their economic competitive advantage by prohibiting the imposition of a local income tax.
3. For years the Washington Department of Commerce has made the state's no-income-tax policy a major selling point for its "Choose Washington" jobs promotion campaign.
4. Despite striking down Seattle's specific graduated income tax, a surprising July 2019 decision by the Court of Appeals opened the door to some type of local income tax.
5. The Legislature this year also narrowly adopted a capital gains income tax (with no local pre-emption) with the stated goal from supporters of using the courts to bring Washington a broad-based income tax without a constitutional amendment.

Introduction

Cities across Washington are acting to ban a local income tax. In one example, this November voters in the city of Yakima will consider ballot measure Proposition 3, a charter amendment that would prohibit city officials from imposing a local income tax. The effort comes as state lawmakers this year enacted Washington's first statewide income tax, on capital gains income, a bill whose constitutionality is being challenged in the courts.

Other cities have already acted to prevent a local income tax. A similar charter amendment was adopted by 72% of Spokane voters in 2019.¹ Officials in Battle Ground, Granger, Kennewick, Moses Lake, Spokane Valley, and Union Gap have adopted resolutions opposed to a local income tax.² The Washington Policy Center has long recommended avoiding the imposition of an income tax.

Efforts to impose an income tax in Washington continue

Despite a prior prohibition in state law against imposing a local income tax, in 2017 the Seattle City Council enacted one anyway, in hopes of persuading the courts to ignore their past rulings and allow a local income tax.³ As expected, a King County Superior Court judge immediately invalidated Seattle's income tax saying it was clearly illegal under state law.⁴ The Court of Appeals, however, issued a surprising decision on July 15, 2019, in this case.

The Court unanimously ruled that Seattle's graduated income tax was unconstitutional based on the numerous rulings previously issued by the state Supreme Court. However, the Court also invalidated statutory prohibitions on local governments from imposing a flat income tax. With

1 "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>.

2 "Union Gap latest city to ban local income tax," by Jason Mercier, blogpost, Washington Policy Center, August 10, 2021, at <https://www.washingtonpolicy.org/publications/detail/union-gap-latest-city-to-ban-local-income-tax>.

3 "Timeless advice from WA Supreme Court on income taxes," by Jason Mercier, blogpost, Washington Policy Center, September 6, 2017, at <https://www.washingtonpolicy.org/publications/detail/timeless-advice-from-wa-supreme-court-on-income-taxes>.

4 "Judge rules Seattle income tax illegal," by Jason Mercier, blogpost, Washington Policy Center, November 22, 2017, at <https://www.washingtonpolicy.org/publications/detail/judge-rules-seattle-income-tax-illegal>.



Jason Mercier is the Director of the Center for Government Reform at Washington Policy Center and is based in the Tri-Cities. He has testified numerous times before legislative committees on government reform issues, and his op-eds regularly appear in newspapers around the state, including The Seattle Times and Tri-City Herald. Jason also provides a regular “Eye on Olympia” TV update for KVEW (ABC Tri-Cities) and can be heard frequently on the state’s radio stations including on KOMO and KIRO.

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the State Supreme Court not hearing this case, the Court of Appeals ruling means officials in cities across Washington may be able to impose a flat 1% local income tax.

Earlier this year the legislature adopted an unconstitutional capital gains income tax (while refusing to stop cities from imposing a local version)⁵ with the stated goal of using the courts to open the door to graduated income taxes across the state.⁶ The legislature also funded budget studies in an effort to convince Washingtonians to support an income tax, with a taxpayer-funded commission now traveling the state to do the same.⁷

As these political efforts to impose an income tax show, a local income tax ban is not a “red herring” or “waste of time” as critics claim. It is instead a reasonable and popular response to stop ongoing efforts to impose an income tax in Washington.

Conclusion

For years the Washington Department of Commerce has made the state’s no-income-tax policy a major selling point for its “Choose Washington” jobs promotion campaign. According to Commerce Department officials:⁸

“We offer businesses some competitive advantages found in few other states. This includes no personal or corporate income tax.”

Former Washington State Treasurer Duane Davidson also agrees that having no income tax is an important advantage to the people of the state. At Washington Policy Center’s May 2019 Solutions Summit held in Spokane, Treasurer Davidson described the importance of avoiding an income tax and explained why not having one is a positive policy for Washington.⁹

Seven Washington cities have already acted to protect this competitive advantage by banning a local income tax including Battle Ground, Granger, Kennewick, Moses Lake, Spokane, Spokane Valley and Union Gap. Yakima voters are being asked this fall to become the eighth city to ban a local income tax. Other cities should do the same and signal to citizens and businesses that they will protect their economic competitive advantage by prohibiting the imposition of a local income tax.

- 5 “UW Tax Law Professor on new capital gains income tax: ‘It’s going to be found unconstitutional,’” by Jason Mercier, blogpost, Washington Policy Center, July 22, 2021, at <https://www.washingtonpolicy.org/publications/detail/uw-tax-law-professor-on-new-capital-gains-income-tax-its-going-to-be-found-unconstitutional>.
- 6 “Lawmaker’s emails confirm goal for capital gains proposal is broad income tax,” by Jason Mercier, blogpost, Washington Policy Center, March 26, 2020, at <https://www.washingtonpolicy.org/publications/detail/lawmakers-emails-confirm-goal-for-capital-gains-proposal-is-broad-income-tax>.
- 7 “The Washington State Tax Structure Work Group,” accessed August 17, 2021, at <https://taxworkgroup.org/>.
- 8 “WA Department of Commerce: No state income tax ‘is great marketing’ for Washington,” by Jason Mercier, blogpost, Washington Policy Center, September 21, 2018, at <https://www.washingtonpolicy.org/publications/detail/wa-department-of-commerce-no-state-income-tax-is-great-marketing-for-washington>.
- 9 “No Income Taxes: The WA advantage (2019 Solutions Summit),” presentation by Washington State Treasurer Duane Davidson, Spokane, Washington, Washington Policy Center conference, May 14, 2019, at <https://www.youtube.com/watch?v=68hVb4UCU8Y>.