TaxNewsFlash

United States

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U.S. state and local election results, tax-related ballot measures

On Election Day (November 6, 2018) voters in the United States approved certain state or local tax-related ballot measures but, in other instances, rejected tax-related ballot measures.

For instance, voters in San Francisco approved tax increases. Voters in Portland, Oregon, approved measures that will subject large retailers to a new tax to fund clean energy projects. However, voters in Washington State rejected a carbon fee.

Tax-related measures approved by voters

Arizona

Prohibit new or increased taxes on services initiative

Proposition 126 [PDF 126 KB] amends the Arizona Constitution to prevent the state and any local government from increasing the rate of tax currently applied to service transactions, or from levying new transaction-based taxes on services not subject to tax as of December 31, 2017. The taxes covered by the proposition include any:

"…sales tax, transaction privilege tax, luxury tax, excise tax, use tax, or any other transaction-based tax, fee, stamp requirement or assessment on the privilege to engage in, or the gross receipts of sales or gross income derived an service performed in this state."

City of San Francisco

Additional tax on gross receipts of businesses to fund homeless services

According to news reports, 60% of San Francisco voters approved a gross receipts tax increase to help fund homeless services. **Proposition C** [PDF 217 KB] increases the city's gross receipts tax on persons, entities, or combined groups engaged in business in the city that have over $50 million of gross annual San Francisco-sourced receipts. The additional rate of tax, dubbed the "Homelessness Gross Receipts Tax," will be imposed on receipts over $50 million at various rates from 0.175% to 0.69%, depending on the business activities in which the taxpayer is involved.

Taxpayers that currently pay tax in San Francisco based on payroll, rather than gross receipts, will be subject to an additional tax of 1.5% of total payroll expense under the measure. The additional tax will generally not apply to businesses currently exempt from the city tax, and will also not apply to any business engaged in commercial leasing that was subject to a gross receipts tax increase approved by voters in June 2018.

As the name of the measure suggests, revenues from the tax increase are to be used to help fund programs to alleviate the city's homeless problem, including the provision of housing and mental health services.

KPMG observation

While it is being reported that 60% of San Francisco voters approved this measure, there is some uncertainty as to whether a two-thirds vote was required to approve Proposition C, thus leaving open the possibility that opponents of the measure will challenge its implementation.

City of Portland, Oregon

Clean energy community benefits initiative

Measure 26-201 amends Portland's Business License Tax Code to require certain "large retailers" to pay a 1% surcharge on gross revenue from retail sales within the City of Portland. Proceeds from the levy will be used to support a variety of clean energy initiatives. The measure defines a large retailer as a business that: (1) is subject to the Portland business license tax; (2) had total annual revenue over $1 billion in the prior tax year; and (3) had Portland annual revenue over $500,000 dollars in the prior tax year.

Certain large retailers will not be subject to the surcharge, including manufacturers or businesses not engaged in retail sales, entities operating utilities, any cooperative recognized under law, or a federal or state credit union.

In calculating gross revenue subject to the surcharge, a deduction is allowed for the Portland business license tax paid, and certain defined sales of groceries, medicines, and healthcare services. Revenue raised through the surcharge will be deposited into the Portland Clean Energy Community Benefits Fund to finance clean energy projects

and job training that is related to clean energy. The surcharge is effective for tax years beginning on or after January 1, 2019.

Florida

Two-thirds vote of legislature required to increase taxes and fees amendment

Amendment 5 [PDF 550 KB] amends Florida's Constitution to require a two-thirds vote of each house of the legislature to enact any new tax or fee or raise existing taxes and fees. Moreover, any measure containing a new or increased tax or fee must now be presented in a separate bill containing no other subject matter. This proposal would not apply to taxes and fees imposed by a county, municipality, school board, or special district. The amendment defines raising an existing tax to mean either increasing the rate of tax or "decreas[ing] or eliminat[ing]" an "exemption or credit."

KPMG observation

Since 1971, Florida has required a three-fifths vote of each house of the legislature to increase the corporate income tax rate above 5%--which Florida last did in 1984. Florida does not have an individual income tax; so, this measure appears to largely apply to sales and use taxes and other transaction taxes.

North Carolina

Income tax cap amendment

North Carolina voters approved a **ballot measure** [PDF 115 KB] that amends the North Carolina Constitution to decrease the maximum allowable state income tax rate from 10% to 7%. This amendment does not affect current rates, as the individual (personal) income tax rate in North Carolina is 5.499%, and the corporate income tax rate is currently 3.0% but drops to 2.5% beginning January 1, 2019.

Tax measures rejected by voters

Colorado

Authorize sales tax and bonds for transportation projects

Proposition 110 [PDF 927 KB] would have increased the state sales and use tax rate from 2.9% to 3.52% for 20 years starting January 1, 2019. Revenue generated from the tax increase would have been dedicated to fund transportation expenditures in Colorado.

Colorado

Establish income tax brackets and raise taxes for education initiative

Amendment 73 [PDF 388 KB] would have increased the Colorado corporation income tax rate from 4.63% to 6.0%, effective for tax years beginning on or after January 1, 2019. The measure would have also increased individual income taxes on certain individuals.

Oregon

Definition of raising revenue for three-fifths vote requirement initiative

Measure 104 [PDF 549 KB] would have required a three-fifths vote of the legislature for any measure that raises revenue. This measure received an affirmative vote from only about 35% of voters. "Raising revenue" would have been defined as any "modification, elimination, or change in eligibility for any exemptions, credits, deduction or lower rate of taxation."

Currently, the Oregon Constitution requires a three-fifths vote of each **state legislative chamber** to pass bills raising revenue; but in 2015, the **Oregon Supreme Court** held that "raising revenue" does not include bills increasing fees or charges for a specific public benefit or service and bills reducing tax preferences, such as exemptions or credits.

Washington State

Carbon emissions fee measure

Initiative Measure 1631 [PDF 76 KB] would have imposed a "pollution fee" on "large emitters" (unless exempted) based on the carbon content of fossil fuels sold or used within Washington State, and electricity generated within or imported for consumption into the state. Just over 56% of the voters rejected the measure. This is the second time Washington voters have rejected a carbon fee measure.

Direct comments, including requests for subscriptions, to Washington National Tax. For more information, contact KPMG's Federal Tax Legislative and Regulatory Services Group at + 1 202.533.4366, 1801 K Street NW, Washington, DC 20006-1301.