

Top State And Local Tax Policies Of 2024

By **Sanjay Talwani**

Law360 (December 20, 2024, 12:28 PM EST) -- Taxes are often unpopular, but in 2024, voters in a couple of states approved taxes that target those with larger earnings, and one state's voters embraced using tax policy to combat problems surrounding homelessness.



Voters in Washington rejected a measure this year that would've ended the state's new 7% tax on capital gains exceeding \$250,000. (AP Photo/Lindsey Wasson)

In Illinois, voters recommended a new millionaires' surtax to support property tax relief in a nonbinding vote. In Washington, a state with no income tax, voters overwhelmingly rejected an effort to reverse a new tax on large capital gains. Arizona voters passed a measure to allow property tax refunds for some owners affected by various public nuisances, in what supporters call an effort to make cities enforce their existing laws.

Here, Law360 looks at some notable state and local tax policies of the past year.

Washington Keeps Capital Gains Tax

In Washington, **voters rejected** a measure to end a new capital gains tax, defeating Initiative 2109 by a vote of 64% to 36%. That kept in place the state's new 7% tax on many capital gains above \$250,000, excluding real estate and certain retirement income, with the revenue used for education and school construction.

Brian Heywood, the prime backer of Initiative 2109 and other initiatives on the 2024 ballot, said voters were misled by the wording of the measure and fiscal impact statement, including its threats that passing the measure would "gut" education. Without the "lies" of initiative opponents, Heywood said, recent survey research shows the measure would have won if it had just been about the capital gains tax.

But Washington lawmakers, he said, facing a budget shortfall, will wrongly interpret the vote as support for higher taxes.

"They know that's not the message, but that's what they're going to take out of it," he said.

Heywood said he's already hearing about potential tax-boosting policy proposals, including the taxing of unrealized capital gains.

"If it's not nailed down to the floor, it's going to get a tax," and if it is nailed to the floor it might get double-taxed, he said.

Brian Minnich, executive vice president of the Freedom Foundation, **which unsuccessfully sued to block the tax**, said that with their victory and an anticipated budget shortfall, the supporters of the tax are likely to seek additional or expanded taxes.

"I would be surprised if it doesn't get worse," Minnich said.

With an anticipated budget shortfall "of its own creation," Minnich said, the state Legislature might well look at increasing the rate of that tax or lowering its \$250,000 threshold, for example. The vote, he said, opens a "Pandora's box" and the potential for ushering in an income tax.

The Freedom Foundation challenged the capital gains tax after the Legislature enacted it in 2021, charging that it violated the state constitution as well as the dormant commerce clause of the U.S. Constitution. The Washington Supreme Court **upheld the tax** and the U.S. Supreme Court **declined** in January to review the matter.

But Treasure Mackley, executive director of Invest in Washington Now, a group opposing the effort to end the tax, said Washington historically had imposed the most "upside-down" tax structure in the nation for generations, a status improved only slightly by the capital gains tax.

"Our state budget has really been balanced on the backs of working people and the middle class," Mackley said.

Looking to the wide margin of the defeat of Initiative 2109, Washington voters understood that ending the tax would harm services, including education and child care, that are essential for communities to thrive, even as the divide grows between "the haves and the have-nots," she said.

"That's something that Washingtonians feel viscerally," she said.

The left-leaning Washington State Budget and Policy Center noted that the tax has raised more than \$1.3 billion in revenue. As the state faces budget shortfalls and a lack of affordable child care, "this money will continue to be meaningful in real ways for people's lives," Melinda Young-Flynn, communications director for the center, told Law360.

Along with the state's concurrently implemented working families tax credit, the tax is helping "make our state tax code more equitable," she said.

III. Looks to Millionaires for Property Tax Relief

Property taxes are rising across the country, and governments are looking for the funds to help provide some relief. In Illinois, voters overwhelmingly looked to the state's higher earners, advising their leaders Nov. 5 **to impose a 3% surtax** on income amounts above \$1 million, with the money raised dedicated to property tax relief. It's only an advisory vote, and it would take legislation as well as another vote of the people to change the state constitution's requirement for a flat income tax.

State Rep. Jay Hoffman, D-Bellefonte, a sponsor of the legislation to place the measure on the ballot, said the significant voter support for the recommendation clearly shows a willingness to take a look at ways to fund tax relief.

"People are clamoring for property tax relief," he told Law360.

The vote, with a margin of about 60% to 40%, also shows many Illinois voters believe some rich individuals are not paying their fair share of taxes, he said.

For such a tax to be enacted, legislation would first have to pass to place a proposed constitutional amendment to change the state's uniformity requirement for its income tax rate, and then voters would have to approve the measure. The state's flat income tax is currently 4.95%.

Voters would not take a constitutional amendment lightly, Hoffman said, and there needs to be more conversation about what type of property tax relief should be provided and how it would be administered. Lawmakers would have to make sure the measure is legal and works to actually get money back in the pockets of the taxpayers who need it, he said.

For such a constitutional amendment to pass, voters would have to be shown "exactly where the money would go," Hoffman said.

The conservative-leaning Illinois Policy Institute said the measure "falsely" promised property tax relief.

While advisory measures such as the tax resolution can drive turnout and show how voters feel about certain things, lawmakers should be hesitant to bring about such a "millionaires' tax," said Bryce Hill, the institute's director of fiscal analysis.

Hill said Illinois voters already rejected the concept in 2020 **with the vote against** a constitutional amendment that would have eliminated the state's flat income tax rate and imposed higher rates for incomes above \$250,000. Chicago voters also **rejected a "mansion tax,"** in March that would have imposed higher tax rates on real estate transactions of \$1 million or more, he said.

"When voters are given the opportunity to vote on binding tax hikes, they reject them," he said.

Ariz. Fights Nuisances With Tax Relief

In Arizona, lawmakers and voters used tax policy to take aim at "public nuisances," including illegal camping, loitering and public alcohol and drug use. With the **passage of Proposition 312**, placed on the ballot by lawmakers, property owners claiming that their local government follows a "policy, pattern or practice" of failing to enforce nuisance laws may be granted a property tax refund equal to the expenses incurred to mitigate the problems.


Under the measure, which passed by a vote of 59% to 41%, if such refunds are approved, the state would reduce payments to the municipality by the refund amounts.

Dan Wilson, spokesperson for the city of Phoenix, which was highlighted by state lawmakers for its ongoing problems with homelessness, said there was no way to estimate the impact of the measure but said it does "not change the city's commitment to lead with education and services and not criminalize homelessness."

Tom Savage, legislative director of the League of Arizona Cities and Towns, said his group is working with jurisdictions on compliance with the law, making efforts to determine what constitutes a "public nuisance" and to get clarity from the state Department of Revenue on the refund process. A department spokesperson said it is preparing taxpayer guidance.

Jenna Bentley, director of government affairs for the conservative Goldwater Institute, said the group hopes municipalities, understanding that taxpayers have a tool to hold them accountable, will start enforcing public health and safety laws. Bentley said it is difficult to say how many people might seek the refunds.

"However, our hope is that no property owners need to file a claim under the new law, because that will mean that the cities are doing their jobs," she told Law360.

Bentley noted that the city of Tempe said Dec. 3 that it would implement "strict enforcement" of its urban camping ordinance following the passage of Proposition 312 and as a result of the U.S. Supreme Court's June decision in **City of Grants Pass v. Johnson** , **which upheld an Oregon city's camping ban.**

Darrell Hill, policy director of ACLU of Arizona, noted that cities already are working to address the nationwide issue of homelessness, and said the process to obtain the refund is hard for the average citizen to take advantage of. But wealthier property owners will be able to use the threat of the refund to influence local governments.

"Those persons will have another tool to use against elected officials to seek the policy preferences that they want," he said.

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