



GUEST OPINIONS

Be wary of capital gains tax | Guest Opinion

BY JASON MERCIER

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Sen. Sharon Brown, R-Kennewick; Washington State Treasurer Duane Davidson and Jason Mercier, of the Washington Policy Center discuss the benefits of not having a state income tax. BY WASHINGTON POLICY CENTER

The state supreme court earlier this month [turned down the Seattle income tax case](#) allowing the appeals court's ruling to stand.

This is good news because it means our state's constitutional ban on a graduated income tax stays in place, and that Seattle cannot move ahead with its "high earners" income tax plans.

However, it also means the [appeals court's bizarre decision to invalidate state law banning local income taxes](#) remains in effect.

Earlier this year [majority Democrats in the legislature refused to hold a public hearing](#) on bipartisan bills that would have re-instated the 36-year old ban on cities imposing any type of income tax.

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Make no mistake though, this is a major decision and devastating blow to those who have been trying to [circumvent voters](#) and get the courts to allow a graduated income tax.

There never should have been any doubt that this court decision would be coming. The state supreme court has [consistently ruled](#) that income is property and that a graduated income tax is not allowed according to the state constitution.

With the legislature refusing to act on the bills this session to reimpose the local income tax ban, however, it will be more important than ever for local officials around the state to follow the lead of [Spokane, Spokane Valley, and Granger](#) in adopting local income tax prohibitions.

Extra vigilance, however, will be needed now on efforts to impose a capital gains income tax in the legislature.

Consider the following comments from [Democratic Senator Marko Liias](#) (current candidate for Lt. Governor) responding to the court's decision: "Disappointed. I was proud to join legislators and leaders in asking the Supreme Court to hear this case. We need progressive tax reform, especially as we recover and rebuild our economy. Our first action must be closing the cap gains loophole! But that's just step 1."

Sen. Liias was referring to [the legal brief filed on the first day of the 2020 session](#) by 15 Democratic lawmakers asking justices to reverse nearly a century of caselaw and allow a graduated income tax to be imposed.

Along with Sen. Liias, several other income tax advocates are now using the current economic crisis as a reason for Washington to impose an extremely volatile capital gains income tax.

Public records [recently received](#), however, confirm that true motivations for imposing a capital gains income tax is to try to do what Seattle did by setting up another lawsuit in hopes the judges will change their mind.

Consider the [following 2018 email from Democratic Sen. Jamie Pedersen](#): "But the more important benefit of passing a capital gains tax is on the legal side, from my perspective. The other side will challenge it as an unconstitutional property tax. This will give the Supreme Court the opportunity to revisit its bad decisions from 1934 and 1951 that income is property and will make it possible, if we succeed, to enact a progressive income tax with a simple majority vote."

As a reminder, addressing directly what type of tax a capital gains tax is, [the IRS said](#): “You ask whether tax on capital gains is considered an excise tax or an income tax? It is an income tax. More specifically, capital gains are treated as income under the tax code and taxed as such.”

Despite what you may have heard from income tax proponents, [sales taxes are less volatile than income taxes](#) (particularly capital gains income taxes). The [extreme volatility of capital gains income taxes](#) is well known by tax experts.

When issuing Washington’s bond credit rating [Standard & Poor’s noted](#): “Washington’s revenues have historically exhibited less cyclicity than others (due in part to the lack of a personal income tax) . . . we have observed that capital gains-related tax revenues are among the most cyclical and difficult to forecast revenues in numerous other states.”

Discussing California’s COVID-19 budget situation, [Governor Newsome was quoted by the Los Angeles Times saying](#), “The reality is that we’re in a state that’s overly reliant on capital gains,” Newsom says. As a result, the volatility of tax receipts ‘will be acute.’”

It is important to remember that there is no recession-proof tax structure.

The key is to build base budgets with fiscal discipline and have strong emergency reserves to help weather economic downturns.

A capital gains income tax will not save Washington’s budget, but it would squarely put the state on the boom-and-bust budget cycle from which California is trying to escape.

The lack of an income tax has long been advertised by [our state’s Department of Commerce as being a “competitive advantage” for Washington](#). State Treasurer Duane Davidson [has repeatedly stated why not having an income tax is positive for Washington](#).

Washington voters have also [rejected 10 straight income tax proposals](#) and a recent poll shows [72% are opposed to a local income tax](#).

Thanks to these just-released legislative public records, there can no longer be any doubt that the real goal of the capital gains income tax proposals is to set up a lawsuit in hopes of being able “to enact a progressive income tax with a simple majority vote.”

The state Supreme Court just rejected the income tax bait from Seattle. Capital gains income tax supporters should take the hint and end their efforts to set up yet another income tax lawsuit.

Jason Mercier is the Government Reform director for Washington Policy Center, a non-profit research organization with offices in Tri-Cities, Spokane, Seattle and Olympia. Online at www.washingtonpolicy.org.





Extra vigilance will be needed to ensure the Legislature does not try to impose a capital gains income tax, according to Jason Mercier, of the Washington Policy Center. FILE *TRI-CITY HERALD*

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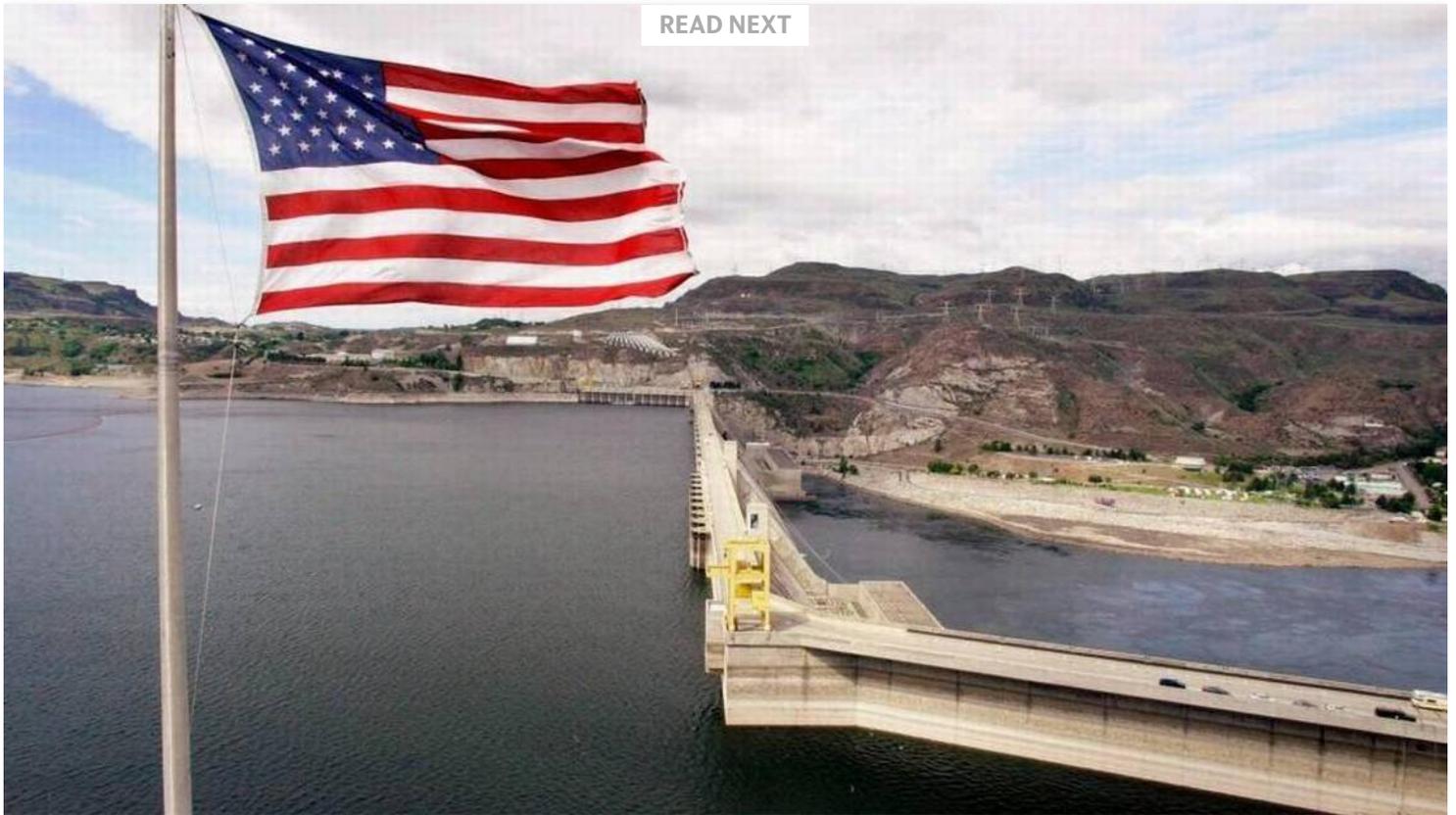
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