

# California Tax Reform without a Supermajority

*Summary: The Legislature may, by **majority vote**, place **tax reforms** before the voters if they amend or repeal relevant voter-passed legislation.*

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Prop 26 (2010) requires a 2/3 **legislative supermajority** for tax changes that increase taxes on *any* taxpayer,<sup>1</sup> even if the overall effect is revenue-neutral or revenue-negative. This makes even basic tax reforms (e.g. “lower the rates, broaden the base”) politically daunting.

However, Prop 26 did *not* take away the legislature’s ability to repeal or amend statutes enacted by initiative.<sup>2</sup> Thus, **if there is a voter-enacted statute on the same subject**,<sup>3</sup> a **simple majority of the legislature** can put a tax proposal before the voters.

For example, SB 726 (Wiener), as amended in the Senate on 3/27/2017, would have used this mechanism to propose the creation of a California estate tax by repealing and replacing Prop 6 (1982). (*Please note that SB 726 is still an active bill but no longer about the estate tax.*)

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## **Tax initiatives the legislature can use as a path to the ballot:**

Prop 7 (1982) — **Personal Income Tax**, Inflation-Adjustment of Tax Brackets. *The California Constitution has language about personal income tax rates,<sup>4</sup> but it only references “the tax imposed pursuant to Section 17041 of the Revenue and Taxation Code,” which is the section Prop 7 amended. Thus the legislature **can still place an income tax change on the ballot by majority vote.***

Prop 10 (1998) — **Tobacco Tax** (First 5, Health). *Changes within the general scope of this measure are also **exempt from the Gann Limit** and Prop 98. See our fact sheet “Prop 10 and Tax Increases by Majority Vote” for details.*

Prop 39 (2012) — **Corporate Income Tax** (Multi-State Corporations)

Prop 63 (2005) — **Personal Income Tax** (Mental Health Services)

Prop 99 (1988) and Prop 56 (2016) — **Tobacco Tax** (Health, Medi-Cal)

Prop 6 (1982) — **Estate Tax**

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<sup>1</sup> See Section 3 of Article XIII A of the California Constitution

<sup>2</sup> See Subsection 10(c) of Article II of the California Constitution

<sup>3</sup> See Section 9 of Article IV of the California Constitution

<sup>4</sup> See Section 36 of Article XIII of the California Constitution, amended by Prop 55 (2016)

