

# 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 378 (Wiener) as amended 03/25/2019, uses this mechanism to propose the creation of a California estate tax by repealing and replacing Prop 6 (1982).

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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. Please 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)

