Oklahoma Intangible Tax Ban Amendment, State Question 766 (2012)

From Ballotpedia

The **Oklahoma Intangible Tax Ban Amendment**, also known as **State Question 766**, was on the November 6, 2012 ballot in the state of Oklahoma as a legislatively-referred constitutional amendment where it was **approved**. The measure abolished property taxes on intangible personal property. Although the bill is a legislative referral and can only be sent to the ballot by the Oklahoma Legislature, the bill was supported by The State Chamber. The group was pushing for the measure in response to a Supreme Court ruling in 2010 that stated that intangible property was subject to local assessment.[1]

Contents

- 1 Election results
- 2 Text of the measures
    - 2.1 Ballot language
- 3 Background
- 4 Support
- 5 Opposition
- 6 Path to the ballot
- 7 See also
- 8 References

State Question 766

Quick stats

Type:	Constitutional amendment
Constitution:	Oklahoma Constitution
Referred by:	Oklahoma State Legislature
Topic:	Taxes
Status:	On the ballot

Election results

See also: 2012 ballot measure election results

The following are unofficial election results

Oklahoma State Question 766		
Result	Votes	Percentage
✔ **Yes**	**824,742**	**65%**
No	444,637	35%

These results are from the Oklahoma State Elections Board (http://www.ok.gov/elections/support/ok_results_seb.html#SQ) with 1960 of 1960 precincts reporting.

Text of the measures

Ballot language

The following is the ballot language that appeared on the ballot:[2]

This measure amends Section 6A of Article 10 of the Oklahoma Constitution. At present that

> *section exempts some intangible personal property from ad valorem property taxation. This measure would exempt all intangible personal property from ad valorem property taxation.*
>
> *An ad valorem property tax is a tax imposed upon the value of property.*
>
> *Intangible Personal Property is property whose value is not derived from its physical attributes, but rather from what it represents or evidences.*
>
> *Intangible Personal Property which is still currently taxed but would not be taxed if the measure is adopted, includes items such as:*
>
> - *patents, inventions, formulas, designs, and trade secrets;*
> - *licenses, franchise, and contracts;*
> - *land leases, mineral interests, and insurance policies;*
> - *custom computer software; and*
> - *trademarks, trade names and brand names.*
>
> *If adopted, the measure would apply to property taxation starting with the tax year that begins on January 1, 2013.*
>
> *Shall the proposal be approved?*
>
> *For the proposal - Yes*
>
> *Against the proposal - No*

Background

According to state reports, the question stems from a lawsuit by Southwestern Bell Telephone complaining with the Court of Tax Review of the ad valorem tax assessments of its property by the State Board of Equalization from 2005-2007

After a settlement was reached, there was still the matter to be resolved of Southwestern Bell's claim that all of its intangible property is exempt from ad valorem taxation. Reports say that both parties involved in the lawsuit stated that this was up to the interpretation of law by the Court of Tax Review.

Then, the Court ruled that only the intangible property set forth in the Oklahoma Constitution is exempt. Southwestern Bell appealed the ruling, but was the appeal was dismissed.

After this ruling, members of the business community in the state, particularly a coalition of Chamber of Commerce and other businesses in the state, pressured lawmakers to bring the issue to a vote.[3]

Support

- Norman Chamber of Commerce President John Woods stated, "The court was very specific in its requirement that all intangible property not currently exempted should be taxed. One assessor's opinion, unfortunately, is not enough guarantee to prevent a massive tax burden to be imposed on local businesses."[4]
    - Woods also stated, "If the state question fails, it would result in one of the largest tax increases on businesses in state history. There is already a growing coalition of businesses

that support this exemption."[4]

- According to a post by Americans for Tax Reform, when speaking about this measure and State Question 758, "If passed, both measures will help increase economic growth and provide Oklahomans with some much needed relief in mid the current economic uncertainty. Prohibiting the taxation of intangible property and capping property tax increases to three percent is necessary to assist Oklahoma in a full economic recovery.[5]

Opposition

- Norman School Superintendent Joe Siano stated, "State Question 766 alone would have about a $600,000 impact on schools and it's about a $33 million impact to public schools in general. You can take each one of these tax reductions independently and say, 'that's not going to hurt very much,' but when you take them together and couple it with the fact that schools are being funded at less than 2008 levels, I think you're facing a critical problem."[4]
- Tax specialist Michelle Cantrell stated in her blog about the measure, "SQ 766 has widespread implications that could drain tens of millions of dollars from schools, fire and police protection, and other vital services, while potentially boosting homeowners' property taxes. As our economy has become more service- and technology-oriented, the value of a company is increasingly based upon intangible assets. In 1975, intangible assets comprised around 2 percent of the net asset book value of S&P 500 companies; by 2005, it was over 40 percent, and the trend is likely to continue. If SQ 766 passes, Oklahoma will find itself increasingly limited in its ability to tax properties."[4]

Path to the ballot

The Oklahoma State Legislature can approve a proposed amendment by a majority vote. However, if the state legislature wants the proposed amendment to go on a special election ballot, it has to approve the amendment by a 2/3rds vote.

The measure was approved by the Oklahoma State Senate on May 22, 2012 with a vote of 31 to 14, sending it to the Oklahoma House of Representatives for a full vote, where it was also approved for ballot access.[1]

See also

- 2012 ballot measures
- Oklahoma 2012 ballot measures
- Oklahoma Treasurer

References

1. ↑ 1.0 1.1 *News 9.com*, "Oklahoma Lawmakers Seek Vote On Intangible Tax Ban", May 22, 2012 (http://www.news9.com/story/18599372/oklahoma-lawmakers-seek-vote-on-intangible-tax-ban)
2. ↑ *Oklahoma Board of Elections*, "Oklahoma State Questions 2012", Retrieved October 3, 2012 (http://www.ok.gov/elections/documents/Oklahoma%20State%20Questions%202012.pdf)
3. ↑ *Norman Transcript*, "Why is State Question 766 on the ballot?", September 15, 2012 (http://normantranscript.com/headlines/x550072503/Why-is-State-Question-766-on-the-ballot)
4. ↑ 4.0 4.1 4.2 4.3 *Claremore Progress*, "SQ 766 - Ballot question stacking up as hot-button item", September 18, 2012 (http://claremoreprogress.com/local/x1059023244/SQ-766-Ballot-question-stacking-up-as-hot-button-item)
5. ↑ *ATR.org*, "Ballot Measures Would Provide Needed Tax Relief for Oklahoma", Retrieved October 1, 2012

(http://www.atr.org/ballot-measures-provide-needed-tax-relief-a7218)

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│ Referred amendment certified for the 2012 ballot

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