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Are State Supermajority Requirements To Enact New Taxes A Good Idea?

In most states, enactment of new taxes or increases in existing ones can be approved by a simple legislative majority. Other states go further. As of 2018, 15 states require a legislative supermajority in both chambers to enact new taxes or increase existing taxes. The supermajority requirement varies from state to state; seven states require a two-thirds majority, five states require three-fifths, and three states require a three-fourths majority.

Colorado imposes an additional requirement that the tax measure be approved by the voters. Taxes subject to the supermajority requirement also vary. Of the states with supermajority requirements, 12 require supermajorities for all taxes, while Arkansas, Michigan, and Wisconsin make exceptions. Arkansas subjects all taxes to supermajority approval except for sales and alcohol taxes; Michigan's supermajority requirement applies only to property taxes; and in Wisconsin, a supermajority is required for sales, income, and franchise taxes. At one time Florida's supermajority requirement was limited to the corporate income tax, but it was extended to all taxes and fees, as well as tax increases, in 2018.

Supermajority requirements for taxes date back 86 years. In 1934, Arkansas was the first state to require a supermajority specific to tax legislation — the property tax, beer tax, cigarette tax, severance tax, corporate and individual taxes, and the motor fuels tax. Taxes enacted after that year require only a simple majority. Arkansas enacted its sales tax in 1941 and its use tax in 1949. Since then, the sales and use taxes have been increased six times.

By contrast, the income tax was increased in 1971, the first since 1929. In the ensuing years after Arkansas implemented its supermajority requirement, only five states followed its lead; Louisiana was the first in 1966, and Delaware the last in 1980. The 1990s, however, saw a flurry of states implementing supermajorities, with nine states joining the pool between 1992 and 2000.

What's So Great About Supermajorities?

Dean Stansel, formerly a fiscal policy analyst at the Cato Institute, explains that a supermajority requirement for tax increases simply means legislators "will have to reach a broader consensus before doing so." Moreover, he claims, "there is evidence that supermajority requirements have at least helped to restrain the growth of taxes," pointing out that "from 1980 to 1996, state tax burdens as a share of personal income increased by 1.1 percent in states with supermajority requirements, [while] taxes rose five times faster in states without such requirements."

According to the Hoover Institution, a study conducted by the Heritage Foundation found that between 1980 and 1992, "tax revenues grew about 20 percent less in supermajority states than in other states, while spending grew nine percent less." Further, "economic growth in supermajority states was eight percent higher than in other states, and job growth was five percent higher."

Americans for Tax Reform, an anti-tax group best known for its Taxpayer Protection Pledge, which stands as a written record of a politician's rhetoric to oppose new taxes or tax increases, claims that voters have embraced supermajorities. The group explains that in Florida, Nevada, Oregon, and South Dakota, where supermajorities were put in place by referendum, the proposals "received over 70 percent of the vote."