

## I-1634: Nipping Local Food Taxes in the Bud

### Briefly

*Initiative 1634 would ban local taxes on groceries (except insofar as they are subject to general state and local retail sales taxes). Although the impetus for the initiative is Seattle's sweetened beverage tax, that particular tax would be allowed to continue. No other jurisdictions are considering grocery taxes at this time, but the proposal is in keeping with Washington's long history of exempting most groceries from state and local retail sales taxes.*

An initiative that would ban local taxes on groceries will be on the ballot in November. Groceries are already generally exempt from state and local retail sales taxes, so I-1634 would pre-empt local jurisdictions from enacting other taxes on groceries. The impetus for this initiative is Seattle's sweetened beverage tax.

### Background

Washington voters exempted food products from retail sales and use taxes in 1977 (Initiative 345). The Legislature then temporarily re-imposed the sales tax for food in April 1982, through June 30, 1983 (Chapter 35, Laws of 1982, 1st ex.s.).

Currently, food and food ingredients are exempt from state and local retail sales and use taxes (RCW 82.08.0293, RCW 82.12.0293, RCW 82.14.030). Alcoholic beverages, tobacco, and marijuana are subject to sales and use taxes.

In 2010, the Legislature applied the sales tax to prepared food, soft drinks, bottled water, candy, and dietary supplements. The legislation also imposed an excise tax on carbonated beverages. Voters responded that November by passing Initiative 1107, which again exempted bottled water and candy from the sales tax and repealed the carbonated beverage excise tax (WRC 2010). Prepared food, soft drinks, bottled water, and die-

tary supplements are still subject to state and local sales taxes.

In 2017, the Seattle City Council adopted an excise tax on the privilege of conducting business in Seattle as a distributor of sweetened beverages, at a rate of \$0.0175 per fluid ounce. The tax began to be assessed on Jan. 1, 2018. The City had estimated that revenue in 2018 would total \$14.8 million (MO 2017). In the first six months, \$10.5 million was collected (Beekman 2018). The ordinance was explicitly adopted to "raise revenue to fund services" promoting public health and education objectives (Ordinance 125324). An implicit goal was to reduce consumption. Other jurisdictions in the U.S. have adopted similar taxes with the explicit goal of discouraging consumption of sugary drinks. (See, for example, Berkeley's Ordinance No. 7,388–N.S.)

No other local jurisdiction in Washington levies similar taxes on sweetened beverages or other groceries (MRSC 2018). Some Spokane City Council members suggested a tax on sugary drinks last year, but the idea did not move forward (Hill 2017).

### I-1634

The initiative would prohibit local government entities from imposing "any tax,

fee, or other assessment on groceries.” (These would include, for example, business and occupation taxes and excise taxes.) It would not apply to such taxes, fees, or assessments in effect Jan. 15, 2018—that is, the Seattle beverage tax would stand. But, Seattle would not be allowed to increase its tax’s rate, scope, or base.

Under I-1634, cities and counties would still be able to levy local retail sales and use taxes. This means that, if I-1634 is approved, prepared food, soft drinks, bottled water, and dietary supplements would still be subject to local sales taxes (so long as they are subject to the state sales tax). Additionally, under the initiative, groceries could still be subject to taxes that are “generally applicable to a broad range of businesses and business activity” and that don’t result in a higher tax rate for groceries.

Local government entities include counties, cities, towns, special districts, municipal corporations, quasi-municipal corporations, joint municipal utility services authorities, certain entities created by public agencies, and public hospitals.

Groceries are defined in the initiative as “any raw or processed food or beverage, or any ingredient thereof, intended for human consumption except alcoholic beverages, marijuana products, and tobacco.”

In the initiative’s fiscal impact statement, the Office of Financial Management finds that it would have no impact on state revenue and “an indeterminate impact on local revenue” (OFM 2018). (While the initiative would have no immediate revenue impact, it would preclude localities from enacting grocery taxes in the future.) It would also have no impact on state or local expenditures.

### **Comment**

In recent years, policies enacted by the City of Seattle have tended to spread to other cities or the state (e.g., increased minimum wage, paid sick leave). Although no other jurisdictions are seri-

ously considering adding local beverage or food taxes, it’s not implausible that some would follow Seattle’s lead at some point, or that Seattle would expand its tax to other food products in the future.

It has long been state policy to exempt food from the sales tax. (Indeed, tax preferences in Washington must generally be reviewed every ten years, but the sales and use tax exemptions for food are excluded from review (RCW 43.136.045).) The initiative’s ban on other local taxes that apply only to groceries would be in keeping with that history.

Washington would not be the first state to enact a ban on local taxation of groceries. Michigan banned local food taxes in 2017 (HB 4999), Arizona banned local food taxes in 2018 (HB 2484), and California banned local taxes on groceries in 2018 (AB 1838). Voters in Oregon this year will also consider a ban on new grocery taxes (Rogoway 2018).

I-1634 states that a reason for its proposed ban is that grocery taxes are regressive and “working families in Washington pay a greater share of their family income in state and local taxes than their wealthier counterparts.” This statement is likely based on a report on state and local taxes from the Institute on Taxation and Economic Policy. We wrote last month about this report’s methodological problems, which lead it to overestimate the regressivity of Washington’s state and local taxes. Ultimately, all state and local tax structures are regressive, and when the progressive federal income tax is factored in, Washington’s overall tax burden is progressive (WRC 2018).

## References

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