Push for Targeted Taxes
Ignores Harm to Consumers, Business, Jobs

Every year the Legislature considers proposals that would increase taxes on one category of taxpayer, based on who they are or what they make or sell. Raising taxes is a very unpopular thing to do in this expensive state, where many working families are struggling just to get by. Because a targeted tax incurs the opposition of only a single group or industry, proponents often favor this approach when seeking increased tax revenue for the state.

Yet targeted taxes are not good public policy. They unfairly burden selected California consumers and employers to support state programs that benefit all Californians. Targeted sales or excise taxes on products are regressive because they are based on the price of the product, not the income level of the consumer. Taxes on targeted businesses raise their cost of doing business, which can lead to price increases for consumers and potentially job losses if they flee the state. Thus, targeted taxes do not result in a stable source of revenue and often result in far less tax revenue than expected. However, with a supermajority of Democrats in both houses, the threat of the Legislature passing a targeted tax is higher than in recent years.

Proponents often justify targeting taxes against various products or behaviors to reduce purchases of these products or change consumer behavior. This is an inappropriate, not to mention inefficient, use of tax law. Taxes are blunt policy instruments. Increasing a tax on a product assumes the consumer will reduce spending on that product, rather than on other products. A targeted tax cannot change a consumer's hierarchy of preferences; it only changes the cost calculations.

RECENT LEGISLATION

• *Soda Tax*

In 2014, the City of Berkeley passed the nation's first tax aimed at sugar-sweetened beverages. Since then, three other California cities—San Francisco, Oakland, and Albany—have passed similar taxes.

There also have been multiple efforts to impose a statewide sugar-sweetened beverage tax in California. In 2017, Assembly Member Richard Bloom (D-Santa Monica) introduced AB 1003, a statewide tax on sugar-sweetened beverages, to fund health programs. AB 1003 failed to pass the Legislature.

Proponents of a sweetened beverage tax argue that it is the soda industry's responsibility to pay for health-related illnesses and conditions that derive from too much sugar consumption. However, as opponents highlight, soda is certainly not the only source of sugar in Californians' diet, and factors other than soda consumption also contribute to these illnesses and conditions.

In 2018, in response to a court ruling that potentially eased local governments' ability to increase targeted taxes, several industry and taxpayer groups collected signatures for a statewide ballot measure to reverse this decision and secure local vote requirements to raise taxes. Subsequent negotiations with local government resulted in the passage of AB 1838 (Committee on Budget), which removed the measure from the ballot and created a 13-year moratorium on the imposition of new local taxes on soda. The ban does not apply to statewide taxes.

The California Medical Association and the California Dental Association already have begun to pursue a statewide sweetened beverage tax via ballot initiative. The Office of the California Secretary of State gave these proponents permission to begin collecting signatures to qualify the initiative for the 2020 ballot. They have until March 2019 to submit the 585,407 required registered voter signatures. If passed, this initiative would create a new 2-cents-per-ounce excise tax on sugar-sweetened beverages. Most of the new revenue would go to health-related programs. This initiative also would unwind the Legislature's June compromise with the beverage industry by amending the State Constitution to allow for new local taxes on sugar-sweetened drinks.

• *Tax on Opioid Medications*

In an effort to combat the opioid epidemic, Assembly Member Kevin McCarty (D-Sacramento) in 2018 introduced AB 2486, which would have imposed an annual excise tax of $100 million

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on manufacturers and wholesalers that distribute or sell opioid medications in California. The money raised would have been allocated to opioid prevention and rehabilitation programs. The bill remained in the Senate policy committee and never was brought to a vote.

Although the goal to combat the opioid epidemic is righteous, the effect of AB 2486 likely could have been a general price increase for opioid medication, thereby harming some of the most vulnerable Californians, including those in need of medically assisted treatment for substance abuse, residents of assisted living and hospice programs, and other patients suffering from painful diseases and illnesses.

• ***Unprecedented 17% Tax Increase on Income of Venture Capitalists, Hedge Funds, and Private Equity Firms, which Invest in Innovation and New Businesses in California.***

AB 2731 (Gipson; D-Carson) sought to impose a 17% surtax on carried interest earned by venture capitalists and other investment partnerships. Carried interest earned by investors is the profit share they receive—if, and only if—their overall investment fund is successful.

This massive and arbitrary tax increase was sponsored by teachers' unions to increase revenues for education. Had it passed, it would have been one of the most significant tax increases ever passed by the Legislature on a single industry—and could have led to a total effective tax rate of almost 70% for carried interest personal income earned by venture capitalists and other investors in California businesses.

Such a tax increase would have been damaging to California's economy and catastrophic to the areas of the state that depend on the ecosystem created by high-risk investment. Venture capitalists and other investors not only would have relocated before realizing their carried capital interest gains and exposing themselves to such a massive tax rate, but likely would have shifted their investment strategies out of state to avoid the risk of realizing gains in California. The overall drop in investment would have meant fewer startups developing into successful California companies in areas crucial to the state's innovation economy, including biotech, clean energy, and more. This enormous tax increase would have been a barrier to entry for newcomers to the investment world and therefore would have led to declining investment participation by underrepresented groups.

LEGISLATIVE ACTION IN 2019

Despite Californians' vehement opposition to increasing general taxes in most circumstances, the 2019 Legislature will inevitably propose additional targeted tax increases. The authors of the bills proposing a tax on opioid medications and a tax increase on the income of venture capitalists and other investors have indicated their intentions to revive these bills in 2019. Given the new makeup of the Legislature, such bills are more likely to pass this year than in previous years. There also are rumors of a bill to tax meat in order to reduce meat consumption by Californians. If this trend continues, there certainly are many more food and beverage contenders for tax increases—candy, syrup, waffles, ice cream, cupcakes, potato chips, pizza—where will it stop?

CALCHAMBER POSITION

Targeted sales taxes are regressive and harmful to consumers. Taxes on targeted businesses increase the costs of doing business in California, which can be harmful to consumers by leading to increased prices and job loss. Any tax increase should be broad-based and shared by all so that the financial impact is mitigated, and so that voters generally are better able to hold elected leaders accountable for the programs funded by these tax increases.

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