

2513.

INITIATIVE PETITION—PROPOSED AMENDMENT TO ARTICLE XII, SECTION 2, CONSTITUTION, BY REPEALING SECTIONS 2 AND 8 AND SUBSTITUTING NEW SECTION 2—TO PROHIBIT SALES TAX—VARIOUS TYPES OF TAXATION—REAL ESTATE, PERSONAL PROPERTY—LIMITATIONS—INCOME TAX—LICENSING MOTOR VEHICLES AND DRIVERS—SEE OPINION 2251, APRIL 8, 1938.

COLUMBUS, OHIO, May 26, 1938.

MR. WALTER W. H. BAERTSCH, *Maumee, Ohio*.

DEAR SIR: You have submitted for my examination a written petition signed by one hundred qualified electors of this state, containing a proposed constitutional amendment and a summary of the same under Section 4785-175, General Code. It is proposed to amend Article XII of the Constitution by adopting and adding thereto a new section to be known as Section 2, to read as follows:

“No sales tax, so-called, or excise tax shall be levied or collected upon the sale, purchase, use, rendition, manufacture, consumption, distribution or exchange of personal property, goods, wares, merchandise or services, except taxes upon the sale, purchase, manufacture or distribution of gasoline or other liquid motor fuel, solid or powdered motor fuel, alcoholic, vinous or maltous beverages, materials used in the manufacture thereof and tobacco products. The licensing of the operation of motor vehicles, motor vehicle transportation by common carriers, and the licensing of drivers of motor vehicles may be provided by law, at rates not exceeding those now in effect.

No ad valorem tax shall be assessed, levied or collected on any real or personal property, or any evidence of title to or interest therein, and except as hereinafter provided, no tax shall be levied or collected upon the gross, or net, income therefrom or upon the use thereof. Assessments may be levied on real estate, not exceeding 50% of the value of the lots or lands, distributed over a period of ten (10) years, for general or special improvements, and for the retirement of bonds issued therefor. Assessments for such purposes, in excess of 50% of the value, may be levied when approved by the electors of the district affected thereby at a general or special election.

Section 8 of Article 12 is hereby repealed; but none of the provisions of this section shall otherwise affect or modify Section 10 of Article 12, laws enacted in conformity therewith, or laws providing for the taxation of financial institutions organized under the laws of the United States and other moneyed capital in competition therewith.

In lieu of ad valorem taxes, laws shall be enacted to provide for the levy and collection of taxes on net incomes at a scale of rates graduated in proportion to the amounts thereof.

Taxable incomes of \$1,200.00 or less, per annum shall not be taxed in excess of one per cent (1%) for all local and state purposes; but laws may be enacted providing that when approved by a majority of the electors voting at an election in the taxing district affected thereby, additional taxes for local purposes may be levied and collected at a uniform rate upon all taxable incomes.

The General Assembly shall enact legislation to effectuate the purposes of this section, but no income shall be exempted by classification predicated on occupation or the source from which income is derived.

Upon failure to enact income tax legislation, the Auditor of State shall establish and certify for collection the requisite rates together with rules and regulations for raising revenue for state and local government.

This amendment when adopted shall take precedence over any others in conflict therewith notwithstanding the provisions of Section 1-B of Article 2, and remain effective until expressly repealed."

A summary of this amendment reads as follows:

"The Constitutional Amendment proposed by this Petition repeals Section 2 and Section 8 of Article 12 of the Constitution of Ohio, and substitutes in lieu thereof a new Section 2 of Article 12.

It prohibits the Sales Tax, so-called, or excise tax except upon Motor fuel, alcoholic beverages and tobacco products.

It prohibits the taxing of real estate and personal property.

It limits assessments against real estate to fifty (50) per cent of value of lots or lands distributed over a period of ten (10) years and permits higher assessments only by a vote of electors in taxing districts affected.

It provides for the licensing of the operation of motor vehicles, motor vehicle transportation by common carriers, and the licensing of drivers of motor vehicles, at rates not exceeding those now in effect.

It provides for the taxing of net incomes at a scale of rates graduated in proportion to the amounts thereof, and places a limitation of one (1%) per cent tax on first \$1,200.00 of annual taxable incomes, but permits additional levies when voted for by a majority of the electors in a taxing district, at a uniform rate upon all taxable incomes.

It provides the General Assembly shall enact legislation to effectuate the purposes of this section; but no income shall be exempted because of occupation or source from which income is derived.

It provides upon failure to enact income tax legislation, the Auditor of State shall establish and certify for collection the requisite rates together with rules and regulations for raising revenues for state and local government, and the amendment when adopted shall take precedence over any others in conflict therewith."

I am of the opinion that the foregoing is a fair and truthful statement of the proposed constitutional amendment and accordingly submit for uses provided by law the following certification:

"Without passing upon the advisability of the adoption of the proposed constitutional amendment, but pursuant to the duties imposed upon me under the provisions of Section 4785-175, General Code, I hereby certify that the foregoing summary is a fair and truthful statement of the proposed constitutional amendment."

Respectfully,

HERBERT S. DUFFY,  
*Attorney General.*