

A 60 Percent Vote Requirement for Tax Increases

by Dr. Richard E. Wagner

In the coming session, the Iowa legislature will have before it a constitutional amendment that would require 60 percent approval within the legislature for any changes in the tax law that would increase taxes. This requirement would apply to changes in the existing income and sales taxes, as well as to any enactment of a new tax.

If simple majority approval is sufficient for the conduct of ordinary business within the legislature, it might be wondered why 60 percent approval would be advocated for changes in tax law. We should note that there are a number of situations where we require governments to operate with more than simple majority approval. Many of these situations involve constitutional changes. At the federal level, a combination of two-thirds and three-quarters approval is required for amendments to the constitution. In Iowa, an amendment to the constitution must be approved by two consecutive legislatures.

There is good reason for making constitutional amendments subject to more stringent conditions than ordinary legislation. A constitution sets forth the basic framework within which people govern themselves. That framework should be relatively permanent and difficult to change. For governance to proceed in orderly and peaceful fashion, it is important that people generally agree about the general framework by which they are governed, even if they may disagree over particular acts of legislation.

Simple majorities are fine for ordinary acts of legislation. They are an effective way of conducting public business in a world where people have different beliefs and opinions about the wisdom of proposed legislative acts. People may, for instance, disagree over the wisdom of a proposal to change teacher certification. There is plenty of room for genuine differences of opinion about the value of different approaches to certification, and yet some approach must be adopted because the classrooms must be staffed and the instruction go forward. A simple majority vote is a good way to resolve this issue. Should opinions change about different approaches in the future, perhaps because of the accumulation of new evidence about different approaches, certification can likewise be changed by majority vote.

Taxation is not like teacher certification. It is more like the constitutional framework within which governance proceeds. The American system of government, for instance, is founded on the belief that people and their rights of person and property are prior to government. This means that the central tasks of government are to preserve and protect people's rights of person and property and to maintain good public order.

The best tax in the world is always one that someone else pays. It is fully understandable that a ruling majority would think that the best tax is one that is paid by the non-ruling minority. What is to stop a dominant majority from reducing its taxes by shifting burdens to the minority? To some degree, the use of such broad-based taxes as those on income and sales limits the scope for political majorities to concentrate taxes on political minorities. Nonetheless, the complexity of modern taxes offers great scope for discriminating among taxpayers through such means as the granting of exemptions, the awarding of credits, or the definition of what constitutes taxable income or sales. What results is a growth of government, as beneficiaries support larger programs when the costs are imposed on others.

Taxes take private property and convert it to governmental use. Governments also take private property through eminent domain. The danger with the power of eminent domain is that those who control the powers of government will take the property of others to further their own projects. The Fifth Amendment to the American constitution allows governments to take property through eminent domain, but it also imposes the restriction that those takings must be for public use and further requires that compensation be paid to those who have lost their property. The point of this clause of the Fifth Amendment is to forestall the ability of the supporters of the government project in question to gain through an expropriation of the property owner. The project can go forward, but only if adequate compensation is paid and if the project is for a legitimate public use. (To be sure, much of the contemporary controversy over takings concerns claims that this constitutional protection has undergone substantial erosion. See, for instance, *Takings: Private Property and the Power of Eminent Domain*, by Richard A. Epstein.)

A similar situation exists with respect to taxation. After all, what is taxation but a taking of property to provide funds to support government? The danger with taxation, as with eminent domain, is that some taxpayers will face expropriation because they are outnumbered by the beneficiaries of the government projects that the tax revenues will support. When it comes to taxation, the equivalent to the Fifth Amendment's restriction on eminent domain is a requirement of super-majority approval for taxation. Government must have a power to tax, but it is also reasonable to require that increases in the takings of property that taxation represents pass a stiffer test than ordinary legislation.

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