

HOUSE JOINT RESOLUTION 10

By Casada

A RESOLUTION to amend Article II, Section 28 and Article XI, Section 9 of the Constitution of Tennessee, relative to taxation.

WHEREAS, this resolution shall be known as the "No State Income Tax" Amendment;
and

WHEREAS, not having a state income tax has brought jobs to Tennessee, and clarifying this prohibition will help Tennessee become the number one state in the southeast for high quality jobs; and

WHEREAS, Article II, Section 28, of the Constitution of Tennessee currently prohibits the levying of a tax on any class of income other than income derived from stocks and bonds;
and

WHEREAS, in 1932, in the case of Evans v. McCabe, 52 S.W.2d 159; once again in 1960, in the case of Jack Cole Co. v. MacFarland, 337 S.W.2d 453; and still again in 1964, in the case of Gallagher v. Butler, 378 S.W.2d 161; the Tennessee supreme court unanimously ruled that the General Assembly lacks constitutional authority to levy a state tax on any class of income other than income derived from stocks and bonds; and

WHEREAS, the aforementioned decisions of the Tennessee supreme court have never been overruled; and

WHEREAS, clearly, the General Assembly can neither exercise nor delegate authority it lacks; and

WHEREAS, any tax measured by an individual's earned income, an employee's salary, or an employer's payroll would be harmful to Tennesseans and is contrary to the longstanding public policy of this state and its political subdivisions; and

WHEREAS, by this resolution, the General Assembly seeks to clarify the language by which the Constitution of Tennessee currently prohibits the levying of a tax on any class of income other than income derived from stocks and bonds; now, therefore,

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE ONE HUNDRED SEVENTH GENERAL ASSEMBLY OF THE STATE OF TENNESSEE, THE SENATE CONCURRING, that a majority of all the members of each house concurring, as shown by the yeas and nays entered on their journals, that it is proposed that Article II, Section 28 of the Constitution of the State of Tennessee be amended by deleting the following sentence:

The Legislature shall have power to levy a tax upon incomes derived from stocks and bonds that are not taxed ad valorem.

and by substituting instead the following:

Notwithstanding the authority to tax privileges or any other authority set forth in this Constitution, the Legislature shall not levy any tax upon personal income or any tax measured by personal income, except that the Legislature may levy a tax upon incomes derived from stocks and bonds that are not taxed ad valorem. Notwithstanding the authority to tax privileges or any other authority set forth in this Constitution, the Legislature shall not levy any tax upon payroll or any tax measured by payroll. Nothing contained herein shall be construed as prohibiting any such tax in effect on January 1, 2011, or adjustment of the rate of such tax.

BE IT FURTHER RESOLVED, that a majority of all the members of each house concurring, as shown by the yeas and nays entered on their journals, that it is proposed that Article XI, Section 9 of the Constitution of the State of Tennessee be amended by deleting the following paragraph:

The General Assembly shall not authorize any municipality to tax incomes, estates, or inheritances, or to impose any other tax not authorized by Sections 28 or 29 of Article II of this Constitution. Nothing herein shall be construed as invalidating the provisions of any municipal charter in existence at the time of the adoption of this amendment.

and by substituting instead the following:

The General Assembly shall not authorize any county, municipality, or other political subdivision of the state to tax incomes, payrolls, estates, or inheritances, or to impose any other tax not authorized by Sections 28 or 29 of Article II of this Constitution; and no county, municipality, or other political subdivision of the state shall levy any tax unless the tax is authorized by Sections 28 or 29 of Article II of this Constitution and unless the General Assembly authorizes the county, municipality, or other political subdivision to levy the tax. Nothing herein shall be construed as invalidating the provisions of any municipal charter in existence on November 3, 1953.

BE IT FURTHER RESOLVED, that the foregoing amendment be referred to the One Hundred Eighth General Assembly and that this resolution proposing such amendment be published in compliance with Article XI, Section 3 of the Constitution of Tennessee by means of posting this resolution on the official web site of the secretary of state or on the official web site of the general assembly.

BE IT FURTHER RESOLVED, that the clerk of the house of representatives is directed to deliver copies of this resolution to the secretary of state and to the director of the office of legislative information services.