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Cal-Tax: Proposition 70 Could be Costliest “Bait-and-Switch” Deal in California History

Taxpayer Watchdog Group Warns Tax Provision of Proposition 70 Could be Invalidated

SACRAMENTO – The California Taxpayers’ Association today said Proposition 70 could be one of the costliest bait-and-switch deals in state history, and called it a scheme that will leave California taxpayers with the bill. Proposition 70 is being falsely promoted as a gaming initiative that will force Indian tribes to pay an 8.84 percent tax on their net income from gaming activities, an amount equivalent to the state’s corporate tax rate.

Cal-Tax warned voters that Proposition 70 revenue from Indian gaming is very uncertain. This tax provision could be challenged in court by the tribes themselves as an unconstitutional tax on Indians. Federal law prohibits states from taxing Indian tribes for any on-reservation activities. The courts have consistently protected Indian tribes from state and local taxation.

Passage of Proposition 70 would be considered a legislative act by the State of California, requiring tribal payments to the state. This requirement could be challenged in court as unconstitutional and be removed from the measure. However, because of the clever way Proposition 70 was written, the remainder of the initiative, including the 99-year Indian monopoly on gaming, would remain in effect.

Such a court challenge is not possible under Governor Arnold Schwarzenegger’s Indian gaming compacts, because those agreements were negotiated between the tribes and the state, with the tribes agreeing with the revenue-sharing provisions.

“Proposition 70 could be the costliest bait-and-switch deal in California history and is an extremely dangerous measure for taxpayers,” stated Cal-Tax President Larry McCarthy. “Full casino gaming as provided for in Proposition 70 will come with tremendous law enforcement costs for cities, counties, and the state. If Proposition 70 passes, it is possible a court challenge will knock out the tax provisions, leaving this state’s taxpayers to pick up the tab.

“Because the courts have been so consistently protecting Indian tribes from taxation, one has to wonder what proponents had in mind putting a blatant tax in the initiative. It

is possible that tribes proposing Proposition 70 knew exactly what they were doing when they wrote it. They can claim during the campaign that the state will receive payments from the tribes in exchange for their 99-year monopoly. But they know that if Proposition 70 actually passed, those tax provisions could be stripped from the law. Californians will be left with a runaway explosion of casino gaming, and not a dime to the state in revenue. That's a sweetheart deal for the tribes and a raw deal for California taxpayers."

A copy of the Cal-Tax analysis is [attached](#).

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