Cannabis Tax Measure Accompanied by an "Advisory Measure" Is a Valid General Tax

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A general tax approved by majority vote is not a special tax simply because voters expressed an opinion about how the tax revenues should be used through a companion advisory measure. In **Johnson v. County of Mendocino**, the court upheld a voter-approved county general tax on commercial cannabis businesses that was approved by a simple majority vote, even though it was accompanied by an advisory measure about how the cannabis revenue should be spent. This decision confirms that local governments can continue to use advisory measures in connection with general tax measures. The voters' non-binding opinion about how proceeds should be spent does not change the vote required for the tax.

When a tax measure earmarks tax revenues for specific purposes, it is a special tax requiring 2/3 voter approval. In this case, plaintiffs claimed that the approval of the cannabis tax measure was insufficient because the measure was actually a "special tax" that requires 2/3 voter approval and not a "general tax" that only requires a simple majority.

The companion measure at issue asked the voters for an "advisory vote only" on whether the county should "use the majority of [the cannabis tax] revenue for funding enforcement of marijuana regulations, enhanced mental health services, repair of county roads, and increased fire and emergency medical services." The court reaffirmed its prior rulings that voter approval of an advisory measure about how to spend general tax revenues does not convert the measure to a special tax. Because the results of an advisory measure do not control legislative decisions about how to spend the tax revenues, the revenues are not dedicated to specific purposes.

For advice concerning local tax measures, please contact **Trisha Ortiz**, **Robin Harris** or any member of the Firm's Public Law Group. For advice concerning cannabis matters, please contact **Maricela Marroquiń**.

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