

Judge strikes down rental-car tax for stadiums

 Peter Corbett, The Republic | azcentral.com 10:25 p.m. MST June 17, 2014



(Photo: Stacie Scott/The Republic)

Arizona could be forced to pay back as much as \$150 million in taxes collected to build the University of Phoenix Stadium in Glendale and Cactus League stadiums across the Valley after a county judge declared a rental-car tax unconstitutional.

Maricopa County Superior Court Judge Dean Fink ruled on Tuesday that a rental-car tax passed by voters in 2000 and targeted at tourists violated the state Constitution because the revenue was being used for the wrong purpose.

That finding would force the Arizona Department of Revenue to refund the money to more than 100 rental-car companies, said Phoenix attorney Shawn Aiken, who represented the rental agencies.

The state is likely to appeal.

Fink's ruling is tied to a constitutional provision that requires the state to spend money raised from vehicle taxes on related issues like highways.

"You can't have highway-related taxes and spend it on stadiums," Aiken said.

The state, the Arizona Sports and Tourism Authority and the Cactus League will face severe consequences if the ruling takes effect.

The authority relies on a 3.25 percent rental-car tax and a 1 percent tax on hotel rooms in Maricopa County to repay \$1.2 billion in revenue bonds for construction of the football and baseball stadiums, along with tourism promotion and youth sports facilities.

Another lawsuit, which is pending, is challenging the hotel tax, Aiken said.

The authority's funding for Cactus League stadiums has already been stretched thin and payments to Goodyear and Glendale will be behind schedule and could be reduced. Taxes collected from tourism declined during the recession and the cost of spring-training facilities has escalated.

"We respectfully disagree with the ruling and intend to appeal it," said Tom Sadler, authority president and CEO. "In deference to that process, we are not going to comment further at this time."

Kim Cygan of the Arizona Attorney General's Office, who represented the Department of Revenue in the tax lawsuit, declined to comment.

Fink in his ruling said the rental-car tax violates the state Constitution "in that it imposes an excise tax relating to registration, operation, or use of vehicles on the public highways or streets whose proceeds are applied to purposes not permitted by the constitutional text."

Aiken said: "We're very pleased for the people of Arizona that another unconstitutional tax was stricken. I've been waiting for it for a long time."

The rental-car and hotel taxes were approved by 52 percent of Maricopa County voters in November 2000 as part of a ballot measure to raise \$1.2 billion over 30 years.

It provided \$250 million for tourism promotion, about \$168 million for the Cardinals stadium, \$194 million for Cactus League stadiums plus money for youth sports facilities.

The 3.25 percent increase in the rental-car tax pushed the overall rental-car tax in Maricopa County to 27.75 percent, which at the time was second

Opponents of the tax filed a lawsuit in 2004 but the Arizona Court of Appeals ruled the lawsuit had to be filed on behalf of the rental-car agencies instead of consumers. The amended case, filed in 2010, was *Saban Rent-A-Car LLC vs. the Arizona Department of Revenue*.

The state would have to refund the taxes collected since 2005 to the rental-car agencies, but customers who paid the tax are unlikely to see any refund, Aiken said.

The tax was intended to be lower for Arizona residents renting a car while their vehicle was being repaired. The tax for locals was supposed to be \$2.50 but the rental agencies tax all their customers at the same rate, court records say.

Read or Share this story: <http://azc.cc/1qbkGBI>

HERTZ® CAR RENTAL

Finding the Perfect Car w/ Hertz is Easy & More Rewarding. Rent Today

