

Saban Rent-a-Car LLC v. Arizona Department of Revenue

Full Citation: Saban Rent-a-Car LLC v. Ariz. Dep't of Revenue, 434 P.3d 1168 (Ariz. 2019).

Date Filed: Feb. 25, 2019

Opinion's Author: Justice Timmer

Joined By: Chief Justice Bales, Vice Chief Justice Brutinel, Justices Pelander, Gould, and Lopez.

Practitioners: For quick reference, please see the "Issue" and "Holding" sections.

Facts: In 2000, the legislature created the Arizona Tourism and Sports Authority ("AzSTA") to build and operate various sports and recreation facilities.¹ AzSTA's construction projects are funded solely by taxes and surcharges approved by county voters.² Soon after its passage, Maricopa County voters passed an initiative levying a surcharge on car rental agencies based on the income derived from leasing vehicles for less than one year.³ Plaintiff Saban Rent-a-Car ("Saban") rents vehicles in Maricopa County and has paid the car rental surcharge.⁴

Procedural History: This case is currently in front of the Arizona Supreme Court. After Saban unsuccessfully sought a refund from the Arizona Department of Revenue ("ADOR"), it sued ADOR in tax court, seeking refunds and injunctive relief for all similarly situated car rental companies.⁵ The tax court certified a class of entities that had paid the surcharge and allowed AzSTA to intervene as a defendant.⁶

Saban filed a motion for summary judgment, arguing that the surcharge violates the U.S. Constitution's dormant Commerce Clause and the Arizona Constitution's anti-diversion provision.⁷ ADOR and AzSTA filed a cross-motion for summary judgment denying these claims.⁸ The tax court granted Saban's motion, finding that the surcharge violated the anti-diversion provision but not the dormant Commerce Clause.⁹ The court then ordered ADOR to refund surcharge payments to class members and to recoup refund amounts from AzSTA.¹⁰

The court of appeals disagreed, finding that the surcharge violated neither provision, and reversed and remanded for summary judgment in favor of the defendants.¹¹

¹ Saban Rent-a-Car LLC v. Ariz. Dep't of Revenue, 434 P.3d 1168, 1170 (Ariz. 2019).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.* at 1170–71.

⁶ *Id.* at 1171.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

Issue: Whether the car rental surcharge in Maricopa County violates the U.S. Constitution’s dormant Commerce Clause or the Arizona Constitution’s anti-diversion provision.

Holding: The surcharge does not violate the dormant Commerce Clause, since it was not enacted with discriminatory intent and it applies equally to residents and non-residents.¹² The surcharge does not violate the anti-diversion provision, either, since it falls outside the narrow definition of taxes “relating to the operation or use of vehicles” under the provision.¹³

Disposition: The court of appeals’ opinion is affirmed. The tax court’s judgment is reversed and remanded with directions to vacate the judgment and for any further required proceedings. The tax court’s refund order is also vacated.¹⁴

Rule: A tax or surcharge will not be found to have discriminatory intent under the dormant Commerce Clause when it applies equally to residents and non-residents. In addition, the clause “relating to” in the anti-diversion provision of the Arizona Constitution refers only to taxes “imposed as a prerequisite to, or triggered by, the legal operation or use of a vehicle on a public road.”¹⁵

Reasoning:

- **Dormant Commerce Clause.** The dormant Commerce Clause prevents states from unjustifiably discriminating against interstate commerce.¹⁶ In determining whether a law violates the dormant Commerce Clause, courts look to whether the law discriminates against interstate commerce.¹⁷ Here, the court finds that the surcharge was not discriminatory since nothing in the surcharge’s language or history suggests discriminatory intent.¹⁸ In addition, the surcharge applies equally to resident and non-resident customers, so voters did not intend to treat in-state and out-of-state economic interests differently.¹⁹ Since the surcharge was not enacted with discriminatory intent, it does not trigger strict scrutiny.²⁰ However, the court did not resolve to what extent discriminatory intent alone can invalidate a tax under the dormant Commerce Clause.²¹
- **Anti-diversion provision.** The anti-diversion provision of the Arizona Constitution holds that no monies derived from “fees, excises, or license taxes relating to operation or use of vehicles” shall be used for “other than highway and street purposes.”²² The

¹² *Id.* at 1172.

¹³ *Id.* at 1178 (Bolick, J., concurring).

¹⁴ *Id.* (majority opinion).

¹⁵ *Id.*

¹⁶ *Id.* at 1171.

¹⁷ *Id.*

¹⁸ *Id.* at 1172.

¹⁹ *Id.*

²⁰ *Id.* at 1174.

²¹ *Id.*

²² *Id.* (quoting ARIZ. CONST. art. 9, § 14).

court looked at the voters' intent to construe the meaning of "relating to," favoring a narrow definition: It only applies to such taxes that are imposed as a prerequisite to, or triggered by, legal operation or use of vehicles on public roads.²³ This narrower definition does not include the surcharge in question.²⁴

²³ *Id.* at 1174, 1178.

²⁴ *Id.* at 1178.