

Illinois: Efforts to repeal soda tax continue



David M. Kall | Thursday, September 14, 2017

There continue to be new developments in the seemingly never-ending fight over Illinois' newly enacted soda tax, which just took effect on Aug. 2, 2017. The last time we [visited](#) this tax, the court had dismissed a lawsuit seeking to have the tax struck down, and the plaintiffs, including the Illinois Retail Merchants Association (IRMA) and several food markets, had filed their notice of appeal.

Since then, Cook County Board of Commissioners President Toni Preckwinkle spearheaded a county lawsuit against those same plaintiffs for \$17 million in damages, on the grounds that their legal challenges, which delayed implementation of the tax by eight months, caused the county to lose revenue. On Aug. 8, 2017, she withdrew the suit, and released the following statement: "Now that the Appellate Court has rejected the emergency motion that would again prevent us from collecting the sweetened beverage tax, we believe we should move forward cooperatively and in good faith with the County's retail industry."

Several other lawsuits have been filed, including three class action complaints against retailers charging the soda tax. The defendants are 7-Eleven Inc., McDonald's Corporation and Walgreens Boots Alliance Inc. The three cases are:

1. [Kelly Tarrant v. 7-Eleven Inc.](#), which alleges that the plaintiff was charged a sweetened beverage tax on her unsweetened Super Big Gulp.
2. [Yvan Wojtecki v. McDonald's Corporation, et al.](#), alleging that the lead plaintiff was overcharged by \$.02, and that all consumers in the class were improperly charged fraudulently.
3. [Vincent De Leon v. Walgreens Boots Alliance Inc.](#), alleging that plaintiffs paid the tax to their detriment, because they were "not supposed to be subject to the sweetened beverage tax."

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The plaintiffs dismissed the suit against McDonalds. Bloomberg reported that “attorneys representing the consumers conceded the sales tax wasn’t applied on top of the beverage tax.”

In the meantime, the Illinois general assembly is considering a measure, [H.B. 4083](#), that preempts home rule for the purpose of preventing counties from imposing a sugar sweetened beverage tax. It also provides that “any such tax in effect prior to” its effective date is “void and repealed.” Introduced on Aug. 15, 2017, it now has more than 40 co-sponsors.

In addition, the Cook County Board of Commissioners is considering taking the tax off the books. On Wednesday, Sept. 13, 2017, the commissioners voted to refer the motion to repeal the tax to the Finance Committee for full adjudication on October 10, 2017. Stated differently by [Crain’s](#), commissioners put the so-called “[p]op tax in holding pattern as [the] county board punts it to committee.”

This gives more time to the [Can the Tax Coalition](#), “a group of concerned citizens, businesses, and community organizations actively opposing any new taxes on more than 1,000 different beverages.” Can the Tax has stepped up its opposition effort, and according to the [Chicago Tribune](#), is promising to spend \$1.4 million on television ads to bolster support for HB 4083. On the other hand, the *Tribune* also noted that former New York Mayor Michael Bloomberg, who has already spent \$2 million in support of the tax, intends to spend another \$3 million on TV commercials to keep the soda tax in place.

IRMA has its own repeal effort in place, by way of a petition. The website, [repealthebevtax.com](#), contends that

[t]he Sweetened Beverage Tax has got to go. Since its inception only a few days ago, we have already seen a mass exodus of consumers leaving the county to buy their goods in neighboring areas... We need to rethink how we run our county to embrace the changes necessary to get us on track to fiscal stability – not overtax those who need their money most.

The site is asking visitors to sign its petition, which asserts that “[i]nsufficient consideration was given to the consequence, both intended and unintended, of such an ill-advised and hastily enacted tax... Therefore, we petition in support of a proposed ordinance to rescind this egregiously excessive tax upon the citizens of Cook County.”



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