

Jeffco job tax ruled OK

State high court gives county major victory

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The Alabama Supreme Court ruled Friday that Jefferson County's occupational tax is constitutional, giving the county a major legal victory in a long, bitter legal fight over the tax.

The high court's decision means that everyone who has been paying the tax since 1988 will continue paying 0.5 percent of their wages for the privilege of working in Jefferson County.

Doctors, lawyers and other professionals who pay license or business fees to the state will regain their exemptions. The court ordered the county to repay millions to the professionals, who started paying the tax after a 1999 court order.

County Commission President Gary White said officials put money collected from the exempted professionals into escrow because they suspected the ruling would be overturned. "We've been holding that money aside, and I guess now we'll refund all that money, plus the interest," he said.

At least six lawsuits have been filed over the tax since its 1987 inception, four of them in the last three years.

Friday's ruling cut through a major knot in the convoluted, confusing fight. Seven of the nine justices heard arguments involving the main lawsuit, a 1992 class-action suit filed on behalf of Jason Richards, and another suit on behalf of exempted professionals.

In 1998, Clay County Circuit Judge John E. Rochester sided with Richards, ruling that the tax was unconstitutional because of the exemptions.

County commissioners asked the Legislature to rewrite the tax to remove the exemptions, but balked when Jefferson County lawmakers also earmarked millions in tax revenue for special projects. The commissioners refused to implement two versions of the tax and professionals sued to not pay the tax. A judge has ruled both unconstitutional.

In Friday's ruling, five out of the seven justices who heard the tax cases disagreed entirely with Rochester's 1998 conclusion that the tax and its exemptions are unconstitutional.

Bill Baxley and his partners, lawyers for Richards and fellow plaintiffs, argued that the tax and its loopholes - for doctors, lawyers, real estate agents, lightning rod installers, palm readers and others - were arbitrary. The justices rejected that and other arguments.

They said the county's tax is reasonably based on state laws that prohibit the county from imposing the tax on workers required to pay state license fees.

Joel Dillard, a partner in Baxley's firm, said Friday in a written statement that the plaintiff lawyers were disappointed. He also said the firm would take the matter to a higher court.

"Our only reaction now is to begin work, today, to do all that we can to convince the United States Supreme Court to hear our case, and decide whether a tax this bizarre and unfair to the average working people in Jefferson County can continue to stand," Dillard wrote.

Though Chief Justice Roy Moore and Justice Douglas Johnstone disagreed with parts of the ruling, all seven justices agreed that the county may not impose the tax on the exempted professionals.

In June 1999, Rochester allowed the county to continue collecting the original tax, as long as the professionals paid, too.

From July 1999 to May 31 of this year, the county has collected about \$8.3 million from the professionals, said Randy Godeke, the county's revenue director.

White said Friday's ruling is the biggest legal skirmish the county has won. The ruling means that the county - which depends heavily on the nearly \$50 million that the tax generates each year - will remain financially sound, at least for now, he said.

The state high court has yet to rule on one more tax case.

A group of lawyers challenged the newest version of the tax, which lowered the rate, removed exemptions on professionals and allocated revenue to special projects that area lawmakers picked.

Justice Thomas A. Woodall recused himself from hearing the cases in the Supreme Court because he had handled two as a circuit judge. Justice Harold See also recused himself, because Baxley is representing him in a separate legal case.