

The Sports Championship Revenue Enhancement Act is a federal statute that was enacted as part of a comprehensive program to eliminate the federal budget deficit. That act imposed, for a period of five years, a 50% excise tax on the price of tickets to championship sporting events. Such events included the World Series, the Super Bowl, major college bowl games, and similar championship sports events.

Is this federal tax likely constitutional?

- A. No, because a 50% tax is likely to reduce attendance at championship sporting events and, therefore, is not rationally related to the legitimate interest of Congress in eliminating the budget deficit.
- B. No, because Congress violates the equal protection component of the Fifth Amendment by singling out championship sporting events for this tax while failing to tax other major sporting, artistic, or entertainment events to which tickets are sold.
- C. Yes, because an act of Congress that appears to be a revenue raising measure on its face is not rendered invalid because it may have adverse economic consequences for the activity taxed.
- D. Yes, because the compelling national interest in reducing the federal budget deficit justifies this tax as a temporary emergency measure.

## Explanation:

The **taxing and spending clause** vests **Congress** with broad taxing power. This allows Congress to impose an indirect tax (eg, excise tax) so long as it is:

- **imposed uniformly** in every state where the taxed goods are found *and*
- **reasonably related to revenue raising** on its face.

Such taxes are constitutional even if they have an adverse economic impact on, or otherwise burden, the thing taxed.

Here, the federal statute imposed a 50% excise tax on tickets to championship sporting events. This indirect tax is applied uniformly to all such events, regardless of where they are held. And though the tax may create adverse economic consequences (eg, reduced attendance) for these events, it is reasonably related to raising revenues to eliminate the budget deficit **(Choice A)**. Therefore, the tax is likely constitutional.

**(Choice B)** This excise tax triggers **equal protection** concerns since it taxes championship sporting events differently than other major events. But since neither the events nor the attendees are a protected class, the tax need only pass rational basis scrutiny. Therefore, the tax likely *complies* with the equal protection component.

**(Choice D)** Congress does not need a compelling national interest or emergency powers to justify the use of its broad taxing power.

## Educational objective:

Congress can impose indirect taxes so long as they are (1) uniformly applied in every state where the taxed goods are found and (2) reasonably related to revenue production. This power is not diminished by the fact that such taxes may burden or restrict the thing taxed.

## References

- *Flint v. Stone Tracy Co.*, 220 U.S. 107, 151 (1911) ("[T]he terms duties, imposts and excises are generally treated as embracing the indirect forms of taxation").
- *Fernandez v. Wiener*, 326 U.S. 340, 362 (1945) ("It has long been settled that an Act of Congress which on its face purports to be an exercise of the taxing power, is not any the less so because the tax is burdensome or tends to restrict or suppress the thing taxed").

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## Congress's taxing power

