

## Pa. Supreme Court gives casinos a tax break

Written by Administrator

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The state Supreme Court has decided that Parx Casino doesn't have to pay taxes on the prizes it gives away each month — a legal win that's likely to be shared by other casinos.

The ruling returns about \$300,000 a year — for 2006 and 2007 — to Parx Casino owners for the prizes such as cars, sports tickets and gift cards it gives away to patrons who gamble at the Bensalem Township, Bucks County, casino. It effectively allows the casino to avoid paying the state's 55 percent gaming tax on about \$1.1 million in prizes — mainly cars — the casino gave away over those two years.

Legal experts say it would appear that the precedent would apply to all 12 casinos — and every year — though the opinion doesn't specify. It merely agrees with the argument made by Parx owners Greenwood Gaming and Entertainment that the casino deserves a tax credit for the prizes it gave away in those two years.

In essence, the court agreed with Parx's contention that prizes such as cars were given away to patrons who were eligible for the prizes only because they'd played slot machines.

State Department of Revenue attorneys argued that the prizes were not directly related to any specific slot machine play — as is dictated in the state's gambling law — and therefore couldn't be deducted.

With its decision — a 6-1 vote with only Justice Ronald D. Castille dissenting — the court overturns a 2009 Commonwealth Court ruling.

"We conclude that the Legislature's inclusion of the comp exclusion is indicative of an intent to

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allow gaming facilities to subtract amounts, such as the promotional awards, without requiring these sums to be tied to the play of a specific slot machine at a specific time," Justice Max Baer wrote in his opinion. "Accordingly, we reverse the order of the Commonwealth Court."

Justice Castille said he believes the ruling will cost taxpayers a lot more in the future.

"Marketing and promotional expenses are simply a cost of doing business i.e., business expenses, for casinos," Castille wrote in his dissent. "The unintended effect of the Majority Opinion will be to encourage increased casino giveaways, subsidized by the taxpayers."

The decision did remand the matter back to Commonwealth Court, where Parx will likely have to go through the formality of showing that its giveaways were only for people who had gambled at the casino.

Legal experts say it will likely result in a change in the way all casinos are allowed to file their taxes every year. Even then, it figures to have a small impact relative to the more than \$1.4 billion in taxes the casino collectively paid last year.

At Parx, for example, the roughly \$300,000 annual tax credit it expects from the change is more than offset by the \$200 million it pays annually in taxes on the money people lose every year on its slot machines.

Parx is the state's most lucrative casino, just ahead of Sands Resort Casino Bethlehem. Even if every casino in the state racked up \$300,000 in annual tax credits on its giveaways, it would amount to a state taxpayer loss of less than \$4 million a year.

The value of promotional prizes statewide is unclear, but the bulk of it is in monthly care giveaways. It's also unclear whether all casinos will be able to cash in by filing tax appeals for their giveaways since 2009.

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