

Armour v. Indianapolis: Do Unequal Taxes Violate the Constitution?

by Donald Scarinci

Taxes are perpetually a source of debate in this country, from federal taxes right down to the water and sewer taxes charged by local municipalities. Legal disputes often arise when certain taxpayers feel they are paying more than their fair share. In [*Armour v. Indianapolis*](#), a group of Indiana taxpayers took their tax fight all the way to the U.S. Supreme Court when a switch in tax policy benefited some more than others.

The Facts of the Case

Indiana's Barrett Law allows municipalities to fund public improvements through special assessments apportioned equally among abutting properties. Under this law, the City of Indianapolis funded the Brisbane/Manning Sanitary Sewers Project. The City levied a \$9,278 special assessment that could either be paid in a lump sum or in monthly installments.

One year after levying the special assessment, Indianapolis adopted the Septic Tank Elimination Program (STEP), which financed projects in part through bonds. After switching to the new financing method, the city forgave the debts owed by the property owners who paid in installments. However, the City did not refund any portion of amounts already paid.

A group of taxpayers who paid in full argued that by forgiving the outstanding debt of some taxpayers without issuing refunds to those who made a single full payment, the City of Indianapolis had violated the Equal Protection Clause.

The Supreme Court's Decision

In a 6-3 decision, the Supreme Court concluded that the tax change was not unconstitutional. The justices used a rational basis standard in reaching their decision because the city's act is a "classification neither involving fundamental rights nor proceeding along suspect lines" and thus "cannot run afoul of the Equal Protection Clause if there is a rational relationship between the disparity of treatment and some legitimate governmental purpose."

Using this deferential standard of review, the Court concluded that Indianapolis' tax policy had a rational basis, noting that administrative considerations can justify a tax-related distinction. The Court specifically highlighted the administrative burdens and costs of maintaining both methods of collection or issuing refunds to all of those who had pre-paid.

"To have added refunds to forgiveness would have meant adding further administrative costs, namely the cost of processing refunds. And limiting refunds only to Brisbane/Manning homeowners would have led to complaints of unfairness, while expanding refunds to the

apparently thousands of other Barrett Law project homeowners would have involved an even greater administrative burden,” the opinion states.

The Court further added that providing a refund to taxpayers who paid in full “would risk transforming ordinary violations of ordinary state tax law into violations of the Federal Constitution.”

However, not all of the justices agreed. In a dissenting opinion, Chief Justice Roberts, joined by Scalia and Alito, argued that the Court should have followed the precedent established in *Allegheny Pittsburgh Coal Co. v. Commission of Webster Cty.*, 488 U. S. 336 (1989). The dissenters characterized *Allegheny Pittsburgh Coal* as a “succinct and unanimous opinion striking down a property tax scheme in West Virginia on the ground that it clearly violated the Equal Protection Clause” and argued that the majority’s distinctions from the current case were not persuasive.

Like *Allegheny Pittsburgh Coal*, the dissenters contended that the Indianapolis tax policy was that “rare case” that comes along “every generation or so” that requires the Court to “say enough is enough, if the Equal Protection Clause is to retain any force in this context.”