



- NEWS
- MEDICAL
- CULTURE
- DISPENSARIES
- GROWING
- LEGISLATION
- PRODUCTS
- GLOBAL
- FORUMS

| Thousands Eligible For 'Crack Tax' Refunds In Tennessee

BY STEVE ELLIOTT -ALAPOET- ON SEPTEMBER 28, 2010

NEWS



When Williamson County Sheriff Ricky Headley was busted for illegal possession of prescription pills, the state of Tennessee taxed him \$13,000 on the value of those drugs.

Sheriff Headley paid the tax, resigned from office, pleaded guilty to four drug charges and one count of official misconduct, and got just under five years' probation, reports Brian Haas of *The Tennessean*.

Photo: CBS News

Tennessee collected \$10.3 million from drug suspects before the "crack tax" was declared illegal.

Then, the disgraced sheriff got all his money back. Plus interest.

"I got every penny back," said Headley's Nashville lawyer, David Raybin.

Tennesseans in a slow but growing trickle have requested and gotten refunds from the state since the Tennessee Supreme Court struck down the so-called "crack tax" law in 2009.

The state Department of Revenue has refunded \$3.7 million to 161 people, but 2,772 people who paid the tax have not gotten any money back.

The decision doesn't apply beyond Tennessee, but 22 other states have passed similar drug tax collection laws, which may be vulnerable to similar legal challenges.

The law, partially based on the 1937 federal law which effectively outlawed marijuana by passing a huge tax on it, required people who bought or sold illicit drugs to buy a tax stamp for the amount of drugs they had.



Graphic: Say Uncle

If they didn't have the tax stamps for their drugs, state agents seized their property and cleaned out their bank accounts until the state got whatever amount was supposedly owed.

"Most of them just don't know, and they state doesn't have any intention of letting them know, that they're eligible for a full refund," said Columbia attorney John Colley, who is leading a class-action lawsuit that would allow attorneys to identify and notify all people who paid the tax while it was still on the books and in effect.

Critics called the law absurd even when it was proposed and passed, but it went into effect in 2005, voted in by spineless legislators who were deathly afraid of ever, ever appearing to be "soft on drugs" in any situation.

The illegal drug tax stamps cost \$50 per gram of cocaine or \$3.50 per gram of marijuana. In 2006 the state collected \$1.8 million of the \$43

SEARCH

CATEGORIES

- Box Corner
- Cannabis Encyclopedia
- Cannabis Time Capsule
- Cannabusiness
- CBD
- Culture
- Dispensaries
- Elections
- Follow that story
- FTP
- Glass Class
- Global
- Growing
- Hemp
- Legalize It
- Legislation
- Media
- Medical
- News
- Opinion
- Products
- Say what?



Graphic: [Ezinemark.com](#)

Twenty-two other states have passed drug tax collection laws similar to Tennessee's crack tax. Such laws are used to seize all the money and assets of accused "drug dealers" — before they are even convicted.

million it assessed.

Of course, it didn't take long for the state to go after drug suspects. Attorneys tell horror stories of surprise "seizures" with revenue agents chasing people down and took all their belongings and money. "They've broken children's piggy banks," said Knoxville lawyer Philip Lomonaco, the attorney who got the law struck down. "They've taken properties that have been in families for generations. They've actually chased people down at the courthouse to get gold chains. "It's ruthless," Lomonaco said.

Though the public may typically have little sympathy for drug dealers and users, the tax seizures typically came *before a suspect was even convicted*. Merely being accused of a "drug tax crime" was enough. The state took \$30,000 from one of Lomonaco's clients before he was convicted on a marijuana charge, and the man ended up losing his house.

Law Struck Down In 2009

The Tennessee Supreme Court struck the law down as unconstitutional in July 2009, ruling the Legislature overstepped its authority to tax. Drug dealers and users didn't fit into the category of "merchants" or "peddlers" under Tennessee law, the court said, so they couldn't be taxed.

But the state had already "collected" \$10.3 million from people by then. And every single person who paid was eligible for a refund.

"Before the sun set on the Cumberland, I was filing claims," Raybin said. "I've been filing claims left and right, and they will give you a refund as long as you fall within certain parameters."

If Colley's class action suit is successful before the Tennessee Supreme Court, everyone who paid the "crack tax" will receive a notice that they could be eligible for a refund.

If the class action suit fails, they're all on their own, and some who paid the crack tax — namely those who were forced to pay in 2005 and 2006 — won't be able to get refunds on the illegal tax because the statute of limitations has passed.

The Tennessee Supreme Court has not yet said whether it will hear the case.

Not to be outflanked, Tennessee legislators in May passed a new version of the crack tax. The new law, which took effect July 1, targets only cases that involve amounts of drugs worth \$10,000 or more. It also redefines drug dealers as "merchants," like any other business in the state, and therefore makes them taxable.

"We really didn't define what a dealer was," said state Rep. Charles Curtiss (D-Sparta), who helped sponsor the both the original crack tax and the new legislation.

"We were making an assumption that when we caught someone with X amount of marijuana or X amount of drugs that they were selling it," Curtiss said.

The new law was drafted with input from the Tennessee attorney general's office to make it more resistant to challenges this time.

Nobody has yet been assessed the new tax. But lawyers are predicting a similar outcome the second time around once the tax agents come knocking — namely, they take everything you have — money, property, the works.

"I don't think there's any way to make this kind of law constitutional," Colley said.



Photo: [WKRN](#)

Nashville attorney David Raybin: "They will give you a refund as long as you fall within certain parameters"

Smuggler's Blues
Stoned Sports
Stoner MacGyver
Uncategorized



TOKE OF THE TOWN ARCHIVES

Select Month ▼

[eligible](#) [haas](#) [raybin](#) [tennessean](#)

SHARE.



[← PREVIOUS ARTICLE](#)

[NEXT ARTICLE →](#)

Officer Shoots Pregnant Unarmed Woman During Drug Raid

S.D. Tea Party Leader: Medical Pot Leads To Widespread Laziness

RELATED POSTS

MAY 10, 2017

0

More Than Half of Survey Respondents Say They've Flown With Marijuana in U.S.

MAY 9, 2017

0

Marist Poll Survey Looks at Marijuana's Impact on the American Family

MAY 8, 2017

0

Inside a Huge Colorado Marijuana Business Lawsuit

[Problems with the Site?](#) | [Privacy Policy](#) | [RSS](#)
© 2017 Voice Media Group Inc. All rights reserved.