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McDonald's, 7-Eleven Sued Over Cook County Soda Tax

UPDATED: The chains are accused of improperly applying the penny-per-ounce tax on drink purchases in separate lawsuits.

By Joe Vince (Patch Staff) - <https://patch.com/users/joe-vince> Updated August 9, 2017 8:44 pm ET



Cook County's controversial sweetened beverage tax has generated two more lawsuits. A Chicago man filed a lawsuit against McDonald's on Tuesday, accusing the fast food chain of improperly calculating the penny-per-ounce charge on the sugary drinks it sells. On Wednesday, 7-Eleven was sued by a Chicago woman who alleges that the convenience stores applies the sweetened beverage tax to all of its oversize cups, even if they're filled with unsweetened drinks.

In the McDonald's suit, Yvan Wojtecki claims he was overcharged by 2 cents because the tax was added to his order's pre-tax cost instead of the sales tax, the Chicago Tribune reports. According to the lawsuit, Wojtecki owed 23 cents from the so-called soda tax — which went into effect Aug. 2 — on his McDonald's order Tuesday.

The 23 cents then was added to the pre-tax cost of his entire order to come up with the subtotal, and the sales tax was applied to that, resulting in the 2-cent overcharge, the report stated. Wojtecki's lawsuit claims the county ordinance establishing the sweetened beverage tax stipulates that the 23 cents he owed should have been added to the total with the sales tax, the report added. (Get Patch real-time email alerts for the latest news for [Chicago](https://patch.com/illinois/chicago/subscribe) (<https://patch.com/illinois/chicago/subscribe>) — or [your neighborhood](https://patch.com/illinois) (<https://patch.com/illinois>). And iPhone users: Check out [Patch's new app](https://itunes.apple.com/us/app/patch-local-breaking-news-crime-weather-events/id430049632?mt=8) (<https://itunes.apple.com/us/app/patch-local-breaking-news-crime-weather-events/id430049632?mt=8>).

Under the county tax, [1 cent is applied](https://patch.com/illinois/chicago/cook-county-soda-tax-starts-wednesday-what-it-means-soft-drink-purchases) (<https://patch.com/illinois/chicago/cook-county-soda-tax-starts-wednesday-what-it-means-soft-drink-purchases>) to every ounce purchased of beverages sweetened with sugar or artificial sweeteners. Drinks, such as unsweetened bottled water or juices that contain 100 percent vegetable or fruit juice, are exempt, however. Cook County officials estimate the tax will bring in about \$200 million annually.

[RELATED: Walgreens Added Penny-Per-Ounce Tax To Unsweetened Drinks: Lawsuit](https://patch.com/illinois/arlingtonheights/walgreens-added-penny-ounce-tax-unsweetened-drinks-lawsuit)
[\(<https://patch.com/illinois/arlingtonheights/walgreens-added-penny-ounce-tax-unsweetened-drinks-lawsuit>\)](https://patch.com/illinois/arlingtonheights/walgreens-added-penny-ounce-tax-unsweetened-drinks-lawsuit)

McDonald's Corp., which is based in Oak Brook, and McDonald's Restaurants of Illinois are [named in the suit](http://www.chicagotribune.com/business/ct-mcdonalds-walgreens-soda-tax-lawsuits-0809-biz-20170808-story.html) (<http://www.chicagotribune.com/business/ct-mcdonalds-walgreens-soda-tax-lawsuits-0809-biz-20170808-story.html>), along with about 24 locations owned by Nick Karavites, a McDonald's franchisee, the Tribune reports. Wojtecki is requesting a jury trial, and he is seeking compensatory and punitive damages equaling at least 1 percent of the annual revenue of each of the defendants' Cook County stores, the report stated. The defendants could not be reached for comment, the report added.

In the 7-Eleven lawsuit, Kelly Tarrant contends that she bought an unsweetened iced coffee in a Super Big Gulp cup, but the cost of the drink [wrongly included 28 cents](http://chicago.suntimes.com/news/latest-soda-tax-suit-claims-7-eleven-taxing-the-cup-not-the-beverage/) (<http://chicago.suntimes.com/news/latest-soda-tax-suit-claims-7-eleven-taxing-the-cup-not-the-beverage/>) for the county tax, the Chicago Sun-Times reports. That's because, according to the lawsuit, the store's electronic scanning system automatically applies the sweetened beverage tax on all drinks in oversize cups, regardless of what's inside, the report added.

Tarrant spotted the error and pointed it out to the store's manager, the report stated. The manager, however, said employees were unable to override the scanning and would not give Tarrant a refund, the report added.

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The lawsuit accuses 7-Eleven of violating Illinois' Consumer Fraud and Deceptive Trade Practices Act, and it's asking for the repayment of actual damages, attorney fees and interest, according to the Sun-Times. A representative from the 7-Eleven Corporation did not immediately reply to a request for comment, the report added.

Both lawsuits come in the wake of a Schaumburg man [filed a class action lawsuit \(https://patch.com/illinois/arlingtonheights/walgreens-added-penny-ounce-tax-unsweetened-drinks-lawsuit\)](https://patch.com/illinois/arlingtonheights/walgreens-added-penny-ounce-tax-unsweetened-drinks-lawsuit) against Walgreens, alleging the drug store chain of wrongfully adding the sweetened beverage tax on drinks that are exempt from the penny-per-ounce tariff. The two-count complaint filed Monday, Aug. 7, claims Walgreens violated the Illinois Consumer Fraud and Deceptive Business Practices Act by deceiving customers and taxing purchases of unsweetened sparkling water. The plaintiff is seeking at least \$50,000 in damages, which would include refunds for anyone else wrongly taxed by the drug store chain.

RELATED: [Cook County Soda Tax Starts This Week: What It Means For Soft Drink Purchases \(https://patch.com/illinois/chicago/cook-county-soda-tax-starts-wednesday-what-it-means-soft-drink-purchases\)](https://patch.com/illinois/chicago/cook-county-soda-tax-starts-wednesday-what-it-means-soft-drink-purchases)

One piece of legal action connected to the soda tax has been dropped. A motion asking for \$17 million in damages from retailers who unsuccessfully tried to block the tax in court [has been withdrawn \(http://www.chicagotribune.com/news/local/politics/ct-cook-county-pop-tax-lawsuit-met-0809-20170808-story.html\)](http://www.chicagotribune.com/news/local/politics/ct-cook-county-pop-tax-lawsuit-met-0809-20170808-story.html) by Cook County, according to the Tribune. The county was requesting that amount based on the money it estimates it lost from [a monthlong temporary injunction \(https://patch.com/illinois/chicago/cook-county-soda-tax-will-coke-cost-more-weekend-judge-will-decide-friday\)](https://patch.com/illinois/chicago/cook-county-soda-tax-will-coke-cost-more-weekend-judge-will-decide-friday) created by the Illinois Retail Merchants Association's lawsuit to stop the tax from going into effect.

The retailers' lawsuit argued that the soda tax was vaguely written and unlawful, and a judge delayed the tax's implementation while he evaluated the suit's claims. Ultimately, a [judge dismissed the retailers' suit \(https://patch.com/illinois/chicago/cook-county-soda-tax-gets-judges-ok-go-forward\)](https://patch.com/illinois/chicago/cook-county-soda-tax-gets-judges-ok-go-forward) a month later. However, the delay resulted in the [layoffs of about 300 county employees \(https://patch.com/illinois/lemont/penny-ounce-soda-tax-purgatory-spurs-300-cook-county-layoffs-hundreds-yet-come\)](https://patch.com/illinois/lemont/penny-ounce-soda-tax-purgatory-spurs-300-cook-county-layoffs-hundreds-yet-come) because of the missing revenue from the soda tax.

More via [the Chicago Tribune \(http://www.chicagotribune.com/business/ct-mcdonalds-walgreens-soda-tax-lawsuits-0809-biz-20170808-story.html\)](http://www.chicagotribune.com/business/ct-mcdonalds-walgreens-soda-tax-lawsuits-0809-biz-20170808-story.html) and [the Chicago Sun-Times \(http://chicago.suntimes.com/news/latest-soda-tax-suit-claims-7-eleven-taxing-the-cup-not-the-beverage/\)](http://chicago.suntimes.com/news/latest-soda-tax-suit-claims-7-eleven-taxing-the-cup-not-the-beverage/)

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