

OPINION

Presiding Judge Kenton D. Jones delivered the Opinion of the Court, in which Judge James B. Morse Jr. and Judge Diane M. Johnsen joined.

JONES, Judge:

¶1 In 2017, Pinal County voters simultaneously approved Proposition 416 (Prop 416) to adopt a regional transportation plan and Proposition 417 (Prop 417) to enact an excise tax to fund the plan. In this appeal, Appellants, Pinal County (the County) and the Pinal Regional Transportation Authority (the RTA), appeal from the tax court's order invalidating the excise tax, and Cross-Appellants (collectively, Vangilder) challenge the court's order denying their request for an award of attorneys' fees. The Arizona Department of Revenue (ADOR) joins Vangilder in asserting the tax is invalid but joins Appellants in defending Prop 417's constitutionality and opposing Vangilder's claim for fees.

¶2 We find the Prop 417 tax to be valid. The RTA's authorizing resolution does not change the substance of the question posed to and approved by the voters; the tax, by its terms, applies across all transaction privilege tax (TPT) classifications; and the tax includes a valid, constitutional modified rate as applied to the retail sales classification. Accordingly, we reverse the order invalidating the tax. Because Vangilder is no longer the successful party in the tax court, we affirm the denial of his request for attorneys' fees.

FACTS AND PROCEDURAL HISTORY

¶3 The RTA is a public improvement and taxing subdivision of the State of Arizona established by the Pinal County Board of Supervisors (the Board) in 2015 to coordinate multi-jurisdictional transportation planning, improvements, and funding. *See* Ariz. Rev. Stat. (A.R.S.) § 48-5302¹ (governing the establishment of a regional transportation authority). Arizona law authorizes the RTA to formulate a plan for transportation projects and propose an excise tax to pay for them. *See generally* A.R.S. §§ 48-5309, -5314. By statute, a county transportation excise tax must be

¹ Absent material changes from the relevant date, we cite a statute's current version.