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Supreme Court will review tax incentives

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WASHINGTON — The Supreme Court said Tuesday it will decide how states may use tax incentives to lure companies to build car plants and other projects, a major test of job-creation strategies nationwide.

Justices will review an Ohio tax program that had been used thousands of times over the last decade until an appeals court ruled last year that it was unconstitutional.

The law was challenged by taxpayers who contend that state bidding wars over car plants and other development have gotten out of hand, with taxpayers footing the bill. They

sued over an investment tax credit that Ohio gave DaimlerChrysler AG to build a Jeep assembly plant that opened in Toledo in 2001.

The car maker and the state urged the Supreme Court to take the case, as did the taxpayers. All sides agree that the case could have a sweeping national impact, with virtually every state having some type of incentive program.

Uncertainty about the constitutionality of Ohio programs "has thrown into disarray the job creation efforts and economic planning of states and localities across the nation, while disrupting the investment decisions of thousands of businesses,"

justices were told in a filing by Charles Rothfeld, the attorney for DaimlerChrysler.

The lawyer for the taxpayers and three small businesses, Terry Lodge, said in a filing that "a clear statement of the unconstitutionality of discriminatory state tax incentives will free all the states from the necessity of engaging in an escalating competition over incentives that deprives them of needed revenues, while gaining a meaningful competitive advantage for none."

The 6th U.S. Circuit Court of Appeals in Cincinnati ruled a year ago that an Ohio tax break

for buying new equipment grants preferential tax treatment to companies that expand within the state over those that expand in other states.

States competing for new employers often include tax credits as part of a package deal.

"The competition among states for business investment dollars is fierce, and the ruling here hamstrings Ohio in its efforts to participate in that struggle," Douglas Cole, Ohio's Supreme Court lawyer, wrote in that state's appeal.