

SIGNIFICANT COURT CASES

Rotation Products Corp. v. Indiana Department of State Revenue, 690 N.E.2d 795 (Ind. Tax 1998)

The court addressed whether repair activity can constitute production or whether repair activity can only be a service. The Court stated that the legislature had already recognized that some repair activity is so extensive that it cannot be characterized as a mere service. In deciding the equipment and materials were deserving of a sales and use tax exemption the court stated “the remanufactured roller bearing is a new product different from both the unusable roller bearing sent to [Rotation] and the roller bearing as it was originally manufactured.”

Bulkmatic Transport Co. v. Department of State Revenue, 691 N.E.2d 1371 (Ind. Tax 1998)

Bulkmatic challenged the constitutionality of a 15% exemption from Indiana’s motor carrier fuel tax as provided in IC 6-6-4.1-4(d). The Court found carriers that used the power take off equipment in Indiana were allowed a 15% exemption for their entire fleet. The Court ruled this acted as an incentive for carriers to deliver products to Indiana companies that would pay less for the delivery due to the exemption. The Court held the limitation of the power take off equipment use exemption violated the Commerce Clause.

Indianapolis Fruit Co. v. Department of State Revenue, 691 N.E.2d 1379 (Ind. Tax 1998)

At issue was whether the equipment used in ripening bananas and tomatoes, tomato packaging, and the protective clothing worn by employees was exempt pursuant to IC 6-2.5-5-1 to -3. The Indiana Tax Court ruled the banana ripening process was production because the bananas underwent substantial changes as they ripened, and Indianapolis Fruits process actively induced those changes. The Court found the tomato ripening process did not constitute production for exemption purposes because Indianapolis Fruit did not trigger the ripening. The Court ruled the tomato packaging did not constitute production. The Court found there was no production preceding the packaging, therefore, the packaging could not be an integral and essential part of an integrated production process. Finally, the Court found the protective clothing worn by employees was entitled to an exemption because it was necessary to prevent contamination of the product during processing.

Max D. Horrall v. Indiana Department of State Revenue, 687 N.E.2d 1219 (Ind. Tax 1997)

The taxpayer was not entitled to a refund of the controlled substances excise tax (CSET), because he had been in possession of marijuana without lawful authority and failed to pay the CSET on time. Mr. Horrall had argued he was the ultimate user and, therefore, had legal justification for possession of the marijuana. However, the Court found the planned use of the marijuana for a “hemp hut” did not make taxpayer’s possession lawful.

White River Environmental Partnership v. Dept. of State Revenue, 49T10-9605-TA-00048, (Ind. Tax 1998)

At issue was whether the treatment of wastewater constitutes production for purposes of the sales and use tax exemptions provided in IC 6-2.5-5-1 and IC 6-2.5-5-30. Taxpayer filed a claim for refund for chemicals and materials consumed during the processing of wastewater. The Court found no exemptions applied as the taxpayer did not produce goods for the marketplace and there was no tax pyramiding to be avoided with the exemptions.

Hyatt Corp. v. Dept. of State Revenue, 49T10-9601-TA-00001, (Ind. Tax 1998)

Taxpayer made unprepared food purchases used for complimentary meals. Taxpayer filed a claim for refund for the use tax paid based on the food for human consumption exemption (IC 6-2.5-5-20). The Court allowed the exemption and found the legislature intended to exempt all food for human consumption regardless of the purchaser. The Court also found all purchases of food for human consumption are exempt even if the food purchases are the last point of sale. The Department is currently appealing this case.

**Dept. of State Revenue v. Estate of Carolyn Hunt Phelps,
89T10-9609-TA-00116, (Ind Tax 1998)**

At issue was whether a proper qualified terminable interest property (QTIP) election could be made in a second, subsequent inheritance tax return. The Estate attached a copy of the will and the revocable trust agreement to the first return which did not satisfy the statutory requirements for electing QTIP treatment (I.C. 6-4.1-3-7). The second inheritance tax return filed, prior to the due date, did properly attach a QTIP election. The Court found failure to attach a QTIP election to the initial inheritance tax return, cannot be cured by filing a subsequent return before the due date. Ind. Admin. Code tit. 45, r. 4.1-3-5(b)(3)(1996).