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Case Law Updates Program
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LOCAL

Valuation

Lake County Assessor v. O'Day Holdings, LLC. Case No. 23T-TA-00015. December 12, 2024.

This case addresses two fundamental questions in Indiana property tax assessment appeals: (1) whether appraisals that include personal property can have probative value for determining real property assessments; and (2) what taxpayers must prove to succeed in a regular assessment appeal. The Indiana Tax Court held (1) that appraisals including personal property retain probative value; and (2) that taxpayers need not prove the exact true tax value of their property to prevail—they may satisfy their burden by demonstrating the assessment is incorrect and establishing a more accurate value, including an upper limit that is lower than the assessment.

O'Day Holdings owned a 5.49-acre industrial complex in Hammond, Indiana consisting of six buildings used for fabricating storage systems, two of which contained overhead cranes and craneways. For tax years 2014, 2015, 2018, 2019, and 2020, the property was assessed at values ranging from $1,438,400 to $1,605,400. O'Day appealed these assessments, presenting two appraisals that valued the property at $870,000 for 2014–2015 and $800,000 for 2018–2020.

The Indiana Board of Tax Review found that the appraisals likely included personal property in the form of overhead cranes and craneways and therefore could not establish the precise true tax value of the real property alone. Nevertheless, the Board concluded that the appraisals demonstrated the property was over-assessed and established an upper limit on the true tax value. The Board reduced the assessments to match the appraised values. The Lake County Assessor appealed, arguing that appraisals including personal property could not be probative of real property value and that the Board misapplied the burden of proof by not requiring O'Day to prove the exact true tax value.

The Indiana Tax Court affirmed the Board's determination, addressing two central legal issues. First, the court held that appraisals including personal property did not automatically lose all probative value. While best practice required excluding personal property, factfinders could account for its presence by determining the appropriate weight and credibility of the evidence based on the degree of uncertainty created. The Court distinguished three precedents: *Hurricane Food v. White River Township Assessor*, 836 N.E.2d 1069 (Ind. Tax Ct. 2005), which required accounting for known personal property value rather than discarding the entire valuation; *Kooshtard Property I, LLC v. Monroe County Assessor*, 38 N.E.3d 750 (Ind. Tax Ct. 2015), which permitted reliance on portions of multi-approach appraisals that properly excluded personal property; and *Mac's Convenience Stores, LLC v. Hendricks County Assessor*, 191 N.E.3d 285 (Ind. Tax Ct. 2022), which involved pervasive personal property that could not be disentangled from real property value and therefore could not establish true tax value.

Second, the Court clarified the burden of proof in regular assessment appeals. The Court noted that neither statute nor regulation explicitly defined what taxpayers must prove once they established an assessment was incorrect. Examining the relevant regulations, the Court concluded that taxpayers must demonstrate that the assessment did not accurately reflect the property's true tax value and must establish an alternative value. However, this alternative value need not be the precise true tax value of the property. Instead, taxpayers could satisfy their burden by establishing an upper limit on true tax value that was lower than the assessment. The

Court emphasized that Indiana's property assessment system balanced accuracy with practical concerns of cost, efficiency, and speed, and that property was an art rather than an exact science. Requiring proof of precise true tax value would force over taxation when evidence clearly demonstrated assessments were too high but could not determine exact value. The Court concluded that a persuasive estimate of an upper limit on true tax value was preferable to an assessment proven to be excessive, noting that "perfect need not be the enemy of the good."

The Court affirmed that the Board's determination was consistent with law, and the assessment reductions were affirmed.

Submitted by: Justin McAdam, Indiana Tax Court

State

Use Tax

9W Halo OPCO, LP v. Arizona Department of Revenue. No. 1 CA-TX 23-0003. November 7, 2024.

9W Halo OPCO, LLC dba Angelica Textile Services ("Angelica") sanitizes more than 600,000 pounds of textiles each week and rents them to entities in the healthcare industry. In 2018, Angelica sought a use tax refund under A.R.S. § 42-5159(B)(1). The Arizona Department of Revenue (ADOR) denied the refund. The Tax Court subsequently granted summary judgment in favor of ADOR.

A.R.S. § 42-5159(B)(1) provides an exemption for: "Machinery, or equipment, used directly in manufacturing, processing, fabricating, job printing, refining or metallurgical operations." "Processing" is not defined in the statute but "refer[s] to and include[s] those operations commonly understood within [its] ordinary meaning." A.R.S. § 42-5159(B)(1). The issue before the Court of Appeals was whether Angelica is a "processing operation" as commonly understood within its ordinary meaning.

The Court of Appeals looked to *Moore v. Farmers Mut. Mfg. & Ginning Co.*, 51 Ariz. 378 (1938) which used the following definition of "process" in the context of cotton ginning: "to subject (especially raw material) to a process of manufacturing, development, preparation for the market, etc; to convert into marketable form, as livestock by slaughtering, grain by milling, cotton by spinning, milk by pasteurizing, fruits and vegetables by sorting and repacking." *Moore*, 51 Ariz. at 382.

Angelica argued that it is exempt as a processing operation because it transforms contaminated textiles into clean, marketable ones. ADOR and the City argued that Angelica is a laundry and linen rental operation.

The Court of Appeals agreed with ADOR and found that Angelica is not a processing operation entitled to a use-tax exemption under A.R.S. § 42-5159. The Court found that the definition of processing set forth in *Moore* does not contemplate a business like Angelica that restores the original article for repeated use rather than introducing new products into the market.

Submitted by: Erik Thorson, Arizona Tax Court

LOCAL

Assessment Processes

Barnett v. County of Dakota. 2025 WL 322709 (Minn. T.C.). January 28, 2025.

The Barnetts own a single-family home built in 2016 with 5,302 square feet of finished living area on a 0.21-acre lot. Their frustration began when the county dramatically increased their property's assessed value from $664,000 (January 2022) to $820,900 (January 2023)—a 23.63 percent increase in just one year.
The Barnetts lost their appeal. The court upheld the county's assessment of $745,000, finding that the Barnetts failed to present substantial evidence to overcome the presumptive validity of the assessment.

Why the Assessment Process is Confusing for Property Owners: The court explicitly acknowledged why property owners like the Barnetts find the assessment process bewildering, stating: "we understand why the Barnetts are here: their perception that the County is either incapable of, or unconcerned with, accurately determining 'market value.'"

The Root Cause of Confusion: The court explained that counties use different methods at different stages, which naturally produce different results:

1. Mass Appraisal Systems: Used for initial assessments, these computerized systems value many properties simultaneously using limited characteristics (like square footage, bedrooms, location). They prioritize uniformity and efficiency over precision for individual properties.
2. Single-Property Appraisals: Used later in appeals, these consider all unique property characteristics that affect value, not just the basic factors in mass appraisal models.

Why This Creates Valid but Different Values:

- Mass appraisals sacrifice individual accuracy for system-wide uniformity
- Single-property appraisals are more detailed but resource-intensive
- The court noted that appraisal is "at best an imprecise art" and "an inexact science"
- Different methodologies legitimately produce different results for the same property

The court ultimately concluded this variation was normal and expected, not evidence of county incompetence, though it clearly understood why property owners would find such dramatic differences in "market value" confusing and frustrating.

Submitted by: Jane Bowman, Minnesota Tax Court

STATE

Income Tax—Domicile

Terry Tischmak v. Utah State Tax Commission. No. 20230443. July 25, 2025

Challenged the State Tax Commission's decision regarding the Taxpayer's state of Domicile as unconstitutional.

Utah, like many other states across the country, offers reduced tuition to Utah residents who are enrolled at state institutions of higher education. These subsidized tuition rates are funded by the state's income tax, which is constitutionally earmarked to include funding for higher education. And the Utah tax code ensures that those benefitting from these subsidized rates pay state taxes on their income. In 2012, the legislature passed the Domicile Statute, which establishes the criteria for determining who is domiciled in Utah for tax purposes. One provision deems all Utah residents who are enrolled in a state institution of higher education (resident students) to be domiciled in Utah and therefore subject to Utah's income tax. UTAH CODE § 59-10-136(1)(a)(ii) (2012). The Domicile Statute also has implications for the spouse of a resident student. If a resident student is married, then the spouse of that student is also considered to be domiciled in Utah and subject to Utah's income tax.

This case concerns the Utah State Tax Commission's determination that Terry Tischmak owes income taxes to the State of Utah for the 2013 and 2014 tax years because he was married to a resident student, even though he was living in Wyoming at the time. During the years in question, Tischmak and his wife had separated but remained legally married. Tischmak lived and worked in Wyoming and his wife lived in Utah and attended Salt Lake Community College. For these tax years, Tischmak and his wife chose to file their federal taxes jointly as a married couple. Under these circumstances, the Domicile Statute deemed Tischmak to be domiciled in Utah because his wife was a resident student.

Tischmak, however, did not pay the Utah state tax on his income in 2013 or 2014. Years later, Tischmak was audited and notified of the deficiency. He appealed, and after a formal hearing the Tax Commission confirmed that Tischmak owed the State of Utah taxes on his income for both years.

Tischmak challenges the Commission's decision, arguing that the Domicile Statute is unconstitutional in numerous ways— but predominantly because it violates the federal right to travel. However, Tischmak has not met his burden to persuade us that the Statute is unconstitutional in any of the ways that he advances. Accordingly, we uphold the decision of the Tax Commission.
Tischmak challenges the Tax Commission's decision on the grounds that the Domicile Statute is unconstitutional. He raises five separate constitutional challenges to the Statute, arguing that it violates the Utah Constitution's Due Process Clause and Uniform Operation of Laws Provision, the U.S. Constitution's Due Process Clause and dormant Commerce Clause, and his federal right to travel. "[T]hose who challenge a statute or ordinance as unconstitutional bear the burden of demonstrating its unconstitutionality." *Greenwood v. City of N. Salt Lake*, 817 P.2d 816, 819 (Utah 1991). "When addressing such a challenge, this court presumes that the statute is valid, and we resolve any reasonable doubts in favor of constitutionality." *State v. Lopes*, 1999 UT 24, ¶ 6, 980 P.2d 191.

Submitted by: Jennifer Fresques, Utah State Tax Commission

LOCAL

Farm Use—Special Assessment

Fazio v. Multnomah County Assessor. 230346N. January 10, 2025.

At issue was whether two parcels totaling 60 acres qualified for farm use special assessment. The parcels were part of a larger farm unit that included 650 acres primarily dedicated to growing pickling cucumbers. Taxpayer's activities on the subject parcels included growing pumpkins, operating a landfill, remediating the soil, and seasonally operating a corn maze and parking lot. The case presented issues of first impression, requiring the court to apply remediation provisions added to the farm use special assessment statutes in 2009. To construe a statute, Oregon courts seek to discern legislative intent by considering text, context, legislative history that is "useful to the court's analysis," and maxims of statutory construction. Held: (1) the landfill and remediation area qualified for special assessment as "implementing a remediation plan"; and (2) the corn maze and parking lot qualified for special assessment as land used to dispose of, by marketing, products raised on the farm unit.

Submitted by: Allison Boomer, Oregon Tax Court

STATE

Corporate Business Tax

Novo Nordisk Inc. v. California Franchise Tax Board. 21047529, 2024-OTA-679P. September 16, 2024.

This case concerns the California research credit; specifically, whether an unrelated third party, Aradigm, acquired a viable trade or business such that appellant may exclude the qualified research expenses (QREs) of a former affiliate, Novo Nordisk Technologies, Inc. (Affiliate), incurred in the 2008 tax year.

Appellant was a pharmaceutical company whose controlled group of corporations was classified as a "startup company" under the research credit rules. Appellant's ultimate parent, a foreign entity outside of the controlled group (Parent), formed Affiliate in 2004 for the specific purpose of developing an inhaled insulin product using IP licensed under a license agreement with Aradigm. In 2008, Parent announced it was terminating the research and development of an inhaled insulin product, terminated the license agreement with Aradigm, and assigned to Aradigm at no cost, the IP, research, and related data gathered by Affiliate during its development of the inhaled insulin product. Affiliate ceased all research and business activity, terminated the leases on its facility in Hayward, California, laid off all but one of its employees, and sold its fixed assets, including laboratory equipment, to appellant's other affiliates and the public. Aradigm's 2008 SEC Form 10-K stated that Aradigm would attempt to out-license or sell the IP that was assigned to it. Affiliate later merged out of existence in 2010 into another affiliate of appellant in the same controlled group of corporations. For the 2011, 2012, and 2013 tax years, appellant, the only entity claiming QREs, did not include Affiliate's QREs in its calculation of the research credit. The Franchise Tax Board (FTB) audited appellant and decreased appellant's research credit for the 2012 and 2013 tax years.

The California research credit is generally determined in accordance with Internal Revenue Code section 41 but provides for a lower credit. (R&TC, § 23609.) The computational rules treat members of the same

controlled group of corporations as a single taxpayer and generally require a taxpayer to compute the allowable “group credit” on an aggregate basis. (See Treas. Reg. § 1.41 6(b); Internal Revenue Code (IRC), § 41(c)(3)(B).) FTB argued that appellant must include Affiliate’s QREs under the computational rules, with the effect of reducing the allowable research credit. Appellant argued that Affiliate was acquired by Aradigm as a viable trade or business, and appellant thus properly excluded Affiliate’s QREs from the research credit computation. (See IRC, § 41(f)(3)(A), (B); Treas. Reg. §§ 1.41 7(b), 1.52.2-(b); R&TC, § 23051.5(d).)

The Office of Tax Appeals (OTA) found that Aradigm acquired goodwill and intangibles but did not operate a similar business to Affiliate’s following the termination because Affiliate’s business required certain fixed assets which Aradigm did not acquire. OTA found that Aradigm continued its own business through third-party licensing agreements, which only required Affiliate’s intangible assets. Therefore, OTA found that Aradigm did not acquire Affiliate as a viable business. Accordingly, the Opinion held that appellant was not entitled to exclude Affiliate’s QREs in computing its California research credit.

The Opinion considered IRC section 41(b)(4), the Aggregation Rule (IRC section 41(f)(1)), and the Consistency Rule (IRC section 41(c)(6)), but found that the rules were inapplicable to the facts of the appeal, and therefore did not support a different statutory construction.

Finally, the Opinion considered whether FTB was required to follow the outcome of the IRS’s examination of appellant’s 2007 through 2012 federal income tax returns. While such a determination may be helpful in deciding an issue on appeal, the reasoning behind the IRS’s determination was not in the record, and OTA was unable to ascertain whether the IRS’s determination was based on a thorough and sound analysis of appellant’s research credit and applicable law. OTA held that FTB news releases do not change the California statutory requirements for calculating the California research credit. Therefore, the IRS determination was not determinative of the California research credit.

Submitted by: Kristen Kane, California Office of Tax Appeals

LOCAL

City Real Estate Transfer Tax

In the Matter of 105-02 Forest Hills, LLC, et al. TAT (E) 20-18 & 20-19 (RP). September 3, 2025.

The NYC Real Property Transfer Tax (RPTT) is imposed on conveyances of real property by deed or on the transfer of a "controlling economic interest" (defined as a 50% or more ownership interest) in an entity that owns real property. In this case, a real estate partnership (Grantor) engaged a company with an expertise in real estate development (SPG) to develop certain real property owned by Grantor (Property) into commercial and residential components. Grantor conveyed the Property by deed to an LLC (Grantee) and, several months later, transferred a 40 percent interest in Grantee to SPG. At the conclusion of the conveyance and transfer, Grantor, in effect, had formed a joint venture with SPG to develop the Property in an entity that was separate from its other real estate ventures.

Although the conveyance of the Property and subsequent transfer of a 40 percent LLC interest to SPG were structured to give the appearance that, as of the date the Grantor and Grantee filed a joint real property

transfer tax return to report the conveyance of the Property to Grantee, Grantor owned and controlled 100 percent of the LLC interests in Grantee. The RPTT has an exemption (mere change of form exemption) where a property's ownership structure changes but the beneficial ownership of the property remains the same. The mere change exemption is comparable to the Type E or F reorganizations under Internal Revenue Code Section 368, or the IRC Section 351 transfer of property to an entity in exchange for stock. Under the transactional structure used, the Grantor retained 100 percent beneficial ownership of the Property and the conveyance was exempt as a mere change. The subsequent transfer of a 40 percent LLC interest to SPG would also be exempt, because it was not the transfer of a controlling economic interest (50 percent or more) in the LLC.

Although the RPTT is an excise tax, the NYC Tax Appeals Tribunal had previously imported the step transaction doctrine from the income tax to determine whether, under the regulatory "facts and circumstances" test, the mere change exemption applies to a multi-step transaction. The ALJ was correct to apply the step transaction doctrine here, because the conveyance and transfer were mutually interdependent and one would not have occurred without the other, and the intended end result was to form a joint venture with SPG. However, the ALJ made several errors and misapplied the mere change exemption to reach the incorrect conclusion that 100 percent of the transaction was exempt, instead of the 60 percent beneficial interest retained by the Grantor.

Submitted by: Robert Firestone, NYC Office of Administrative Tax Appeals

STATE

Mansion Tax

Arc/Mercer, Inc. v. Director, Division of Taxation. Docket No.: 007970-2024; 2025 N.J. Tax Unpub. Lexis 10; 2025 WL 1354956 (N.J.Tax). May 8, 2025.

The Legislature exempted I.R.C. § 501(c)(3) entities from the mansion tax. The mansion tax is 1 percent of the sales price of certain types of properties valued over one million dollars. ARC/Mercer, an I.R.C. § 501(c)(3) entity, purchased a commercial property and mistakenly paid the tax. Nine months later, ARC/Mercer sought return of the erroneous payment. Citing a 90-day limitation on contested mansion tax refund claims, the Director refused to return the payment. Despite ARC/Mercer lacking a valid refund claim, the erroneous payment provision of the State Uniform Tax Procedure Law requires the Director to return the payment.

Submitted by: Mark Cimino, Tax Court of New Jersey

LOCAL

Jurisdiction

Sixarp, LLC v. Township of Byron. ___ Mich___; ___ NW3d ___. March 26, 2025

The Tribunal has exclusive jurisdiction over property tax appeals. A property's true cash value (market value) is determined as of December 31 of the previous tax year. Assessment notices are issued by the local taxing authority in January. For some types of property, a property owner is required by statute to protest the assessment at the local Board of Review (BOR) before the assessment may be appealed to the Tribunal.

In *Sixarp*, the property owner was required to but did not protest the assessment to the BOR. Sixarp argued that it did not protest to the BOR because the assessment notice did not provide sufficient notice as to its appeal rights, thereby violating its due process rights. The Tribunal held that Sixarp's due process rights were not violated and further that the Tribunal does not have equitable powers to "waive or otherwise disregard a statutory requirement or filing deadline." Therefore, the Tribunal dismissed the appeal due to lack of jurisdiction. Sixarp appealed to the Michigan Court of Appeals, which reversed the Tribunal's decision, finding that there had been a due process violation. The Court then "vested" the Tribunal with the ability to hear the case as a matter of equity and remanded the case for further consideration.

Byron Township appealed the Court of Appeals' decision to the Michigan Supreme Court. The Supreme Court reversed the Court of Appeals, finding that there had not been a due process violation. The Court also took the opportunity to overturn another Court of Appeals' decision that held that the process for perfecting an appeal at the Tribunal was a mere "procedural requirement." In fact, the process is a statutory requirement that "may only be waived by the court if necessary to remedy a constitutional due-process violation that deprived the taxpayer of their ability to invoke the right to protest." The Tribunal is not a "court" and is therefore unable to waive the filing requirements.

Submitted by: Patricia Halm, Michigan Tax Tribunal

STATE

Constitutional Issues—Equal Protection: Uniformity

Delta Air Lines, Inc. v. Oregon Department of Revenue. S070593. July 24, 2025.

On appeal from the Oregon Tax Court, the Oregon Supreme Court decided that no state or federal constitutional provision precludes Oregon's statutes that tax the intangible property of airlines, but not other transportation companies such as bus lines or trucking companies. Highlights:

- Decision limits the reach of the Oregon Supreme Court's prior decision in Mathias v. Dept. of Rev., 312 Or 50, 817 P2d 272 (1991), which stated: "a classification, to survive the protections of the uniformity in taxation clauses of the state constitution, must be based on real differences between the subjects disparately treated by the classification."

- The Oregon uniformity clauses (there are two) do not require that classifications have a rational basis; the uniformity clauses merely require (1) "territorial uniformity"—that classifications apply uniformly across the geographic territory of the authority levying the tax; and (2) uniformity as applied—no selective enforcement.
- The Oregon equal privileges and immunities clause requires only that the classification be rationally related to a legitimate governmental purpose. Under that standard, a classification need not be perfect; legislature not bound to tax every member of a class or none.
- Federal equal protection clause analysis is "very similar to that which applies under state law."
- Irrelevant that Congress has chosen by statute to apply a more restrictive test to the property taxation of railroads.

Case is now on remand to the Tax Court for any further proceedings, including potentially trial of the fair market value of Delta's overall unit of property, as allocated to Oregon by formula.

Submitted by: Robert Manicke, Oregon Tax Court

STATE

Administrative Regulations

PacifiCorp v. Oregon Department of Revenue. S070564. September 18, 2025.

On appeal from the Oregon Tax Court, the Oregon Supreme Court (1) agreed with the Tax Court that there was no constitutional violation where state law imposed property tax on the intangible property of a regulated utility, but not on other businesses; and (2) reversed the Tax Court on an issue related to the method for valuing PacifiCorp's centrally assessed unit of property.

As to point (1), see *Delta Air Lines, Inc. v. Oregon Department of Revenue*, 374 Or 58 (2025), which was heard together with PacifiCorp's appeal.

As to point (2), the Tax Court erred by concluding that the Department of Revenue's administrative rule for valuing centrally assessed property did not bind the court in its determination of fair market value. The rule in question is the *Appraisal Handbook* published by the Western States Association of Tax Administrators (the *WSATA Handbook*). The Supreme Court held that the *WSATA Handbook* was binding because the legislative delegation of rulemaking authority was established by plain statutory language. The Supreme Court distinguished early case law relied on by the Tax Court, in which the Supreme Court rejected valuation rules on an as-applied basis. The Supreme Court also rejected the Tax Court's reliance on Oregon case law that led the Tax Court to conclude that it was not required to defer to the *WSATA Handbook* as a rule.

The case is remanded to the Tax Court for further proceedings, which may include considering whether particular provisions of the *WSATA Handbook*, as applied to the evidence, are inconsistent with the constitutional and statutory definition of fair market value.

Submitted by: Robert Manicke, Oregon Tax Court

LOCAL

Constitutional Objections to Assessment/Jurisdiction

Gary II LLC v. Lake County Assessor. 256 N.E.3d 600 (Ind. Tax Ct. 2025). March 7, 2025.

This appeal is only the second time, after *Sawlani*, that statutory tax caps have been challenged for a constitutional infirmity, and it is a case of first impression regarding whether the statutory "residential property" tax cap classification has been properly applied under the constitutional standard.

Facts: Gary II, LLC protested the 2017 assessed values of five vacant, platted lots located in residential neighborhoods with paved streets, utilities, and sidewalks in Gary, Indiana. The Lake County Property Tax Assessment Board of Appeals (PTABOA) upheld four of the assessments, reducing the fifth. The Indiana Board of Tax Review affirmed the PTABOA's determinations, finding that Gary II had failed to present probative market-based evidence and had not shown its parcels qualified for the 2 percent tax cap for non-homestead residential property rather than the 3 percent tax cap applied to nonresidential real property. Gary II appealed to the Indiana Tax Court, challenging both (a) the base rates used in assessments; and (b) the 3 percent tax cap applied to its properties.

I. **Issues**. Did the Indiana Board err in upholding the 2017 assessments based on finding (1) that the Calumet Township base rates were proper; and (2) that Gary II's vacant platted lots were not "residential property" eligible for statutory 2 percent property tax caps, but were instead "nonresidential real property" subject to the 3 percent tax cap?

II. **Law**. The statutory definition of "residential property," in relevant part, is real property that is a single-family dwelling that is not a homestead and one acre of land on which the dwelling is located. IND. CODE § 6-1.1-20.6-4 (2017).

The statutory definition of "nonresidential real property" is (1) real property that is not homestead or residential property and the land on which it sits; OR (2) undeveloped land on the remainder of a parcel not part of a homestead or residential property. It is not agricultural land. IND. CODE § 6-1.1-20.6-2.5 (2017).

The Indiana Constitution was amended two years after the Legislature enacted statutory tax caps, to limit a property's tax liability to a percentage of the property's assessed based on the property's classification:

> A taxpayer's property tax liability on tangible property described in subsection (c)(4) may not exceed one percent (1 percent) of the gross assessed value of the property… A taxpayer's property tax liability on other residential property may not exceed two percent (2 percent)… Agricultural land… may not exceed two percent (2 percent)… Other real property… may not exceed three percent (3 percent). IND. CONST., art. 10, § 1(f).

The Indiana Constitution defines the property classifications subject to tax caps as:

> The property classification eligible for the 1 percent tax cap is "[t]angible property,

including curtilage, used as a principal place of residence[.]" IND. CONST. art. 10, § 1(c)(4). Other residential property [2 percent] is "tangible property (other than tangible property described in subsection (c)(4)) that is used for residential purposes… 'Agricultural land' [2 percent] means land devoted to agricultural use… 'Other real property' [3 percent] means real property that is not tangible property described in subsection (c)(4), is not other residential property, and is not agricultural land. IND. CONST. art. 10, § 1(e).

III. **Analysis**: Gary II made two claims: (1) the base rates were not set using the proper process, were untimely, and were based on flawed comparables; and (2) that its lots, although vacant, were platted, zoned, and historically used for residential purposes, and thus qualified for the 2 percent residential property tax cap. Lake County Assessor responds that because the parcels had no dwellings, they were nonresidential real property subject to the 3 percent cap.

Base Rates. The Tax Court found that the process of determining the base rates was proper because the reassessment cycle and timing complied with statute and the use of improved property sales as comparables was permissible. Moreover, the Court found that Gary II's challenges were conclusory because they lacked probative, market-based evidence. Thus, the Indiana Board's determinations were not arbitrary, capricious, or contrary to law.

Property Tax Cap Classification. First, the Tax Court noted that the statutory definitions of tax cap classifications omit a "use" standard central to the Constitutional definitions. Thus, the Assessor's literal application of the statutory language ignored the "use" of vacant parcels, finding Gary II's parcels without dwellings could not meet the statutory definition of "residential property."

Statutes must be read, if possible, consistent with the Constitution. Here, the statutory classifications must be construed to incorporate the Constitution's use standard. Thus, the Assessor's construction, and the Indiana Board's affirmance, were contrary to law.

Next, the Assessor claimed Gary II did not provide probative evidence that raised a prima facia case, failing to shift the evidentiary burden and the need to offer rebuttal evidence. On the contrary, the record was replete with evidence demonstrating the parcels were used for residential purposes (property record cards showing Residential Class 500; GIS maps visually showing residential neighborhoods; zoning ordinances; prior dwellings).

IV. Conclusion:

- **Base Rates** – The Indiana Board's final determination is Affirmed; the assessments were not unlawful or unsupported by substantial evidence.
- **Tax Cap Classification** – Reversed and Remanded; the properties must be treated as "residential property" under the Constitution, and the 2 percent tax cap applies to Gary II's five parcels for 2017.

Submitted by: Martha Blood Wentworth, Indiana Tax Court

STATE

Income Tax

Taxpayers v. Arkansas Department of Finance and Administration. 24-TAC-02810. July 15, 2025.

Overview

- This was the lead case involving 26 different taxpayers who filed a total of 58 appeal petitions. The case involves a married couple who filed three petitions seeking relief from two proposed tax assessments and one refund denial issued by the Arkansas Department of Finance and Administration (DFA).
- The taxpayers owned an interest in an S corporation during 2021, 2022, and 2023, which paid franchise taxes in Texas and Tennessee.
- DFA disallowed the credits for taxes paid to Texas and Tennessee asserting these states do not impose a state income tax.

Legal Arguments and Findings

- DFA conceded the Tennessee issue. The remaining issue was whether the Texas franchise tax qualifies as a "net income tax" under Arkansas law, which would entitle Taxpayers to a credit.
- Taxpayers argued that the Texas franchise tax is functionally an income tax, supported by testimony from a CPA and national accounting standards.
- DFA contended that the Texas franchise tax is a privilege tax, not directly based on net income, and thus does not qualify for the credit.

Outcomes

- The Arkansas Tax Appeals Commission concluded that the Texas margin tax is a "net income tax" under Arkansas law, allowing Taxpayers to claim credits against their Arkansas individual income taxes for 2021, 2022, and 2023.
- The proposed tax assessments and partial refund denial were reversed, and the interest and penalties assessed by DFA no longer apply.
- The en banc decision was issued by Commissioner Sanford, with Commissioner Sloan joining. The third commissioner position was vacant. As such, this decision set a binding precedent.
- DFA subsequently filed motions for withdrawal for the remaining 25 cases, which involves Arkansas taxpayers who pay taxes to Texas, Tennessee, and New York.
- This could influence similarly situated taxpayers nationwide.

Submitted by: Joseph Sanford, Arkansas Tax Appeals Commission

LOCAL

Statutory Procedure

Badger Mining Corp. and Smart Sands Inc. v. Wisconsin Department of Revenue. March 11, 2025.

Taxpayers objecting to a manufacturing real estate assessment or manufacturing personal property assessment are required to use proscribed forms to file such an objection. Taxpayers must provide, on the form, answers to all substantive statutory requirements, but are not required by law to fill in every box on the form.

Submitted by: Liza Kessler, Wisconsin Tax Appeals Commission

STATE

Personal Property—Excise Tax

Republic Services of Indiana Transportation, LLC v. Marion County Assessor. 49-600-17-1-7-00270-22, et seq. October 24, 2024.

A garbage collection service ("Republic") failed to report the front-end lifts of its garbage trucks on its personal property tax returns but did list the garbage trucks under a nontaxable schedule for out-of-service property.

Under Indiana law, trucks over 11,000 pounds are subject to the excise tax and exempt from the personal property tax. However, based on a Department of Local Government ("DLGF") regulation, "nonautomotive equipment" remains subject to the property tax. Additionally, a DLGF "memo" specifically states that front end lifts on garbage trucks are personal property (along with several other examples such as well-drilling equipment or mobile MRI units).

In Indiana, an assessor has up to three years to audit and reassess a property tax return, but only if it is not in substantial compliance (otherwise, a shorter five-month window applies). The Assessor audited Republic's return within that window and assessed the front-end lifts.

Republic raised two challenges: (1) the audit was untimely because its returns were in substantial compliance; and (2) the front-end lifts are not subject to the property tax because they are subject to the excise tax.

Prior case law in Indiana established that substantial compliance does not require accuracy, despite a statute requiring a verification of the truth of the data submitted in a property tax return. The Board held that because Republic reported the garbage trucks on the return, the Assessor had sufficient notice regarding the possibility of front-end lifts. Based on these circumstances, the Board found substantial compliance and the audit was untimely.

In the alternative, the Board addressed the merits. It held that because the excise statute defines trucks as commercial vehicles that transport property, the proper question is whether the front-end lifts are used in the transportation of property. The parties did not dispute that garbage trucks were subject to the excise statute (which implicitly presumed that transporting garbage is transporting property.) Framed this way, the front-end

lifts assisted in transporting garbage and should not be subject to the property tax. The decision was not appealed.

Submitted by: Jonathan Elrod, Indiana Board of Tax Review

LOCAL

Valuation—Income Approach: Rents

Burnsville Medical Building, LLC v. County of Dakota. 20 N.W.3d 601. May 14, 2025.

The Minnesota Supreme Court affirmed the tax court's of a three-story medical office building in Burnsville at $9.3 million for 2021 property taxes, which was higher than Dakota County's initial assessment of $8.0 million. The taxpayer challenged the tax court's methodology, arguing it should have used "effective net rent" (which reduces market rent by tenant improvement allowances and free rent concessions) rather than market rent to calculate potential gross income under the income capitalization approach, and that the court erred in rejecting an occupancy adjustment proposed by the taxpayer's appraiser. However, the Supreme Court rejected both arguments, relying on its recent precedent in Tamarack Village that established market rent should be used unless tenant improvements or rent concessions are excessive or atypical for the market—which the taxpayer's expert admitted was not the case here. The Court also upheld the tax court's rejection of the occupancy adjustment, finding that the appraiser's downward adjustments to all comparable properties regardless of their actual occupancy rates (even those 100 percent occupied) lacked credibility and improperly considered lease-specific factors rather than fee simple value. The Supreme Court deferred to the tax court's credibility determinations and factual findings, concluding that the tax court's methodology was legally sound and supported by adequate evidence.

Submitted by: Jane Bowman, Minnesota Tax Court

LOCAL

Appeal of Final Order

Hollydale v. Hennepin County. 17 N.W.3d 457. February 26, 2025.

the Minnesota Supreme Court dismissed Hennepin County's petition for writ of certiorari challenging a tax court's denial of the County's motion to dismiss for lack of jurisdiction. The underlying dispute arose when Hollydale sold a golf course that had been taxed under Minnesota's Open Space Property Tax Law, triggering $2.6 million in deferred taxes for seven years, which Hollydale paid but contested as miscalculated. When the County moved to dismiss Hollydale's tax petition as untimely, arguing that challenges should have been made annually rather than after the sale, the tax court denied the motion, finding the petition timely under the statute allowing appeals within 60 days of tax assessment notice. The Supreme Court reaffirmed its precedent in *Beuning Family LP v. County of Stearns* (2012), holding that a tax court order denying a jurisdictional challenge is not a "final order" reviewable under Minn. Stat. § 271.10, subd. 1, and declined to overrule or limit Beuning despite the County's argument that defending seven years of taxes simultaneously would be

burdensome. The Court also refused to exercise discretionary review authority, concluding that judicial economy favored allowing the tax court to resolve the merits first rather than engaging in piecemeal litigation.

Submitted by: Jane Bowman, Minnesota Tax Court

LOCAL

Agricultural Valuation

A & P Ranch Ltd. v. Cochise County, et al. TX2022-000423 and No. 1 CA-TX-24-0002. July 17, 2025.

The Arizona Tax Court granted summary judgment in favor of the taxpayer, A & P Ranch Ltd., based on the Cochise County assessor's failure to follow the prescribed statutory method for valuing agricultural property that included vineyards and nut orchards.

A.R.S. § 42-13101(A) sets forth the method for agricultural property: “Land that is used for agricultural purposes shall be valued using only the income approach to value without any allowance for urban or market influences.” The Tax Court ruled in favor of the taxpayer's argument that this language and supporting references within the statutory scheme require that permanent crops be valued with their land and not separately as improvements thereto.

Cochise County and the Arizona Department of Revenue relied upon the Department's Agricultural Property Manual, which, in some form since September 1983, has provided that “Permanent crops are considered to be improvements on the land and are not valued using the statutory formula prescribed for the of agricultural land. Assessors should use their discretion in determining permanent crop values that are reflective of the market in their jurisdictions.” The County began applying it in earnest in 2022 and 2023, causing 2,000 percent (nut orchards) and 8,000 percent (vineyards) increases in full cash values, respectively.

The Tax Court found this manual provision at odds with the statutory language, which provides for no distinction based on whether agricultural land bears "permanent crops," and at odds with the state constitution's uniformity clause.

Moreover, as of 2021, Arizona has had an anti-*Chevron* statute in its tax code, meaning: "The court shall decide all questions of law without deference to any determination that is made by the department [of revenue].” A.R.S. § 42-2080(G).

About a year after the Tax Court decision, the Arizona Court of Appeals affirmed it in full, finding the term "land" in the phrase “land that is used for agricultural purposes” to include land that bears permanent crops. The Defendants have a fully briefed petition for review pending before the Arizona Supreme Court.

Submitted by: Erik Thorson, Arizona Tax Court

STATE

Interstate—Utility

San Diego Gas & Electric Company v. Arizona Department of Revenue. No. CV-23-0283-PR. January 31, 2025.

Taxpayer San Diego Gas & Electric owns an interstate electric transmission line from the Palo Verde Generating Station in Maricopa County to San Diego. The Arizona Department of Revenue (ADOR) determines the value of specific components of electric transmission property and its overall full cash value. See A.R.S. §§ 42-14153 and 42-14154.

In 2020, Taxpayer reported the following: (1) a net "original plant in service" of $48,817,396; (2) a net "related accumulated provision for depreciation" of $51,446,397; and (3) a "construction work in progress" of $3,648,475. See A.R.S. §§ 42-14152 and 42-14154(B) and (C). To calculate the full cash value of all its property, Taxpayer subtracted the depreciation ($51,446,397) from the original plant in service cost ($48,817,396) for a negative of $2,629,001. Taxpayer then added the construction work in progress ($3,648,475) resulting in a full cash value of $1,019,474.

ADOR disagreed with the figures reported and calculated the full cash value as $22,111,000. Taxpayer appealed the and the Tax Court found that Taxpayer's calculation correctly followed A.R.S. § 42-14154. ADOR appealed, arguing that the statute does not permit a negative value for a reduced plant in service cost. The Court of Appeals agreed, vacated the Tax Court's judgment, and remanded.

The Arizona Supreme Court addressed two issues: (1) whether the reduced plant in service cost can be negative; and (2) how a negative affects the of the construction work in progress.

The Arizona Supreme Court ultimately found that the calculation for the reduced plant in service cost results in a value of negative $2,629,001. The statute setting forth the reduction based on accumulated depreciation does not have limiting language as included in other provisions and does not preclude a negative .

The Court also found that the way to determine the full cash value of Taxpayer's property is to sum the s prescribed by A.R.S. § 42-14154. As a result, a negative value for one of the s will reduce the overall full cash value. The Court clarified that a negative value does not "offset" the other s under A.R.S. § 42-14154 but reduces the overall full cash value.

Submitted by: Erik Thorson, Arizona Tax Court

STATE

Apportionment

E. I. duPont de Nemours and Company & Subsidiaries v. Commissioner of Revenue. N.W.3d. August 27, 2025.

The Minnesota Supreme Court affirmed the tax court's decision allowing the Commissioner to use an alternative apportionment method under Minnesota Statutes section 290.20 rather than the standard formula in section 290.191 for calculating DuPont's Minnesota corporate franchise tax liability for 2013–2015. The dispute centered on how to apportion receipts from forward exchange contracts (FECs), which DuPont used as hedging instruments to protect against foreign currency fluctuation risks in its multinational operations. Under the standard method, DuPont included gross receipts from FEC transactions, which comprised over 70 percent of total gross receipts but generated less than 5 percent of net income, significantly diluting the company's Minnesota tax liability. The tax court found that the Commissioner met his burden to prove the standard method didn't fairly reflect DuPont's income allocable to Minnesota because FEC transactions were qualitatively different from DuPont's core science and technology business (serving only as risk management tools rather than profit-generating activities) and created substantial quantitative distortion by inflating total sales without proportionate income contribution. The Supreme Court upheld the tax court's factual findings that FECs were fundamentally different from DuPont's manufacturing and sales activities, rejecting DuPont's arguments that the transactions were part of ordinary business operations, and concluded that the alternative method using net income rather than gross receipts from FEC transactions better reflected the company's true business activities in Minnesota.

Submitted by: Jane Bowman, Minnesota Tax Court

LOCAL

Default Procedure—Burden of Proof

City of Jersey City v. Wright JC Suites LLC. 010126-2023. September 19, 2025.

Municipality appealed to the county board of taxation seeking to increase the assessment. The county board waived a hearing and affirmed the existing assessment. The municipality appealed the county board judgment to the Tax Court. The defendant/owner/taxpayer did not make an appearance or otherwise attempt to defend the appeal. The decision focuses on four areas: due process, default judgment, burden of proof, and discrimination. The court held that because the complaint had been sent by regular and certified mail to defendant at the address listed on the tax roll, service of process conformed to the due process requirements set forth in the rules of court. The court next determined that the appeal should proceed to default judgment. The court also found that default judgment had a lesser burden of proof based on the case law. Finally, the court found that municipalities suffer statutory discrimination in the context of their role in providing for fair taxation amongst all taxpayers in the municipality.

Submitted by: Mary Brennan, Tax Court of New Jersey

STATE

Income Tax—Real Estate Profession

Brozovich v. Hennepin County. 17 N.W.3d 743. March 5, 2025.

The Minnesota Supreme Court affirmed a tax court decision that denied Angeline and Frank Brozovich over $105,000 in rental real estate loss deductions for their Washington property for tax years 2019 and 2020. The Commissioner assessed the Brozoviches $10,864.58 in additional taxes, penalties, and interest after determining that Angeline did not qualify as a "real estate professional" under Internal Revenue Code § 469(c)(7)(B), which requires performing more than 750 hours of services in real property trades or businesses. The tax court found that Angeline's handwritten journal documenting the required hours was not credible because it was produced late in the audit process, conflicted with previously submitted spreadsheets showing far fewer hours, and was inconsistent with the Brozoviches' earlier representation that all records were maintained digitally. Additionally, the tax court determined that many activities recorded in the journal—such as reading about real estate investments, researching property listings in other states, and extensive textile work—were not sufficiently related to their rental business, which generated only $2,840 from 48 rental nights over two years, mostly to family members. The Supreme Court also upheld the tax court's rejection of other claimed deductions, including losses from renting to their son without adequate proof of fair market rent and credit card interest payments lacking sufficient documentation connecting them to business expenses.

Submitted by: Jane Bowman, Minnesota Tax Court