

Sales/Use/Indirect:

Washington Supreme Court Holds that Tax on Federally Subsidized Wireless Services Violates Supremacy Clause

Case No. 101873-8, Wash. (3/7/24). In a case concerning a federal program subsidizing wireless services for low-income consumers, the Washington Supreme Court (Court) reversed a Washington Court of Appeals opinion to hold in a telecommunication company's favor that Washington retail sales tax imposition on the reimbursement funds it received through the program violates the intergovernmental tax immunity doctrine and the Supremacy Clause as applied in this case, because the underlying "buyer" in the transactions at issue operated as an instrumentality of the federal government. Previously, the Washington Department of Revenue had upheld the underlying retail tax assessments – and the Washington Court of Appeals had agreed – finding that the transactions constituted taxable retail sales involving a buyer that was simply a nonprofit appointed to administer the federal program and thus any resulting tax burden on the federal government was merely indirect and constitutional. Reversing and remanding the case, the Court noted that the intermediary nonprofit was created for the express purpose of effecting the federal government's telecom policy objectives, and the federal government (specifically, the Federal Communications Commission) played a significant role in the nonprofit's creation. Please contact us with any questions.

URL: <https://www.courts.wa.gov/opinions/pdf/1018738.pdf>

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