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IN THIS ISSUE

BECAUSE I SAID SO: HOW MUCH DEFERENCE IS DUE?

By Hollis L. Hyans and Matthew F. Cammarata

For many years, duly promulgated administrative regulations—both tax and nontax—have been given a high level of deference by courts. This has been true at both the federal and state levels, and the courts' deference analysis has often been guided by the U.S. Supreme Court's decision in *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*[1] "*Chevron* deference," as it is often called, is one of the strongest tools the government has in any controversy that calls an agency's regulation into question. The standard is highly deferential to the agency, and it is difficult for taxpayers to convince courts to overturn an agency's considered policy. In recent years, however, both federal and state tax practitioners have called the wisdom of *Chevron* deference into question, and courts (and some state legislatures) have begun to agree. Companies should be aware as they formulate tax positions and analyze the hazards of litigation that tax agencies' interpretations may not always be entitled to the high degree of deference they have long been afforded. Positions contrary to those taken in an agency's public guidance may therefore have a greater chance of success in jurisdictions where the practice of administrative deference has been called into question.

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Upcoming Speaking Engagements

December 11, 2019

Council on State Taxation's Southeast Regional State Tax Seminar
Atlanta, Georgia

- "Special Report: Federal Tax Reform – State Conformity Or Not?"
  Nicole L. Johnson
- "Current Developments in the Southeast States"
  Craig B. Fields and Matthew F. Cammarata
- "Discussion of National State Tax Cases, Issues and Policy Matters"
  Craig B. Fields and Nicole L. Johnson
- "Best Practices for Handling Tax Disputes"
  Nicole L. Johnson and Matthew F. Cammarata

December 16 – 17, 2019

New York University's 38th Institute on State and Local Taxation
New York, New York

- "*Wayfair* Writ Large: The Spread of Economic Nexus"
  Craig B. Fields
- "Does *Wayfair* Affect P.L. 86-272?"
  Philip M. Tatarowicz
- "Combined Filing and the Resurgence of Worldwide Combined"
  Mitchell A. Newmark
- "Apportionment Issues: Recent Developments"
  Hollis L. Hyans

January 14, 2020

Tax Executives Institute State Tax Luncheon
Dallas, Texas

- "East Coast Developments"
  Hollis L. Hyans

January 28, 2020

Ohio Business Tax Conference
Columbus, Ohio

- "Managing a Mobile Workforce: Tax Challenges and Strategies for Success"
  Nicole L. Johnson

January 30, 2020

Council on State Taxation's 2020 SALT Basics School
Atlanta, Georgia

- "Restrictions on a State's Ability to Tax"
  Mitchell A. Newmark

February 6, 2020

San Francisco Tax Club
San Francisco, California

- William H. Gorrod

March 17, 2020

American Bar Association/Institute for Professionals in Taxation Advanced SALT Conference
New Orleans, Louisiana

- "Apportionment Update"
  Nicole L. Johnson

May 19, 2020

Council on State Taxation's Intermediate/Advanced State Income Tax School
Atlanta, Georgia

- "Advanced State Adjustments Related to Foreign Income"
  Nicole L. Johnson

WHAT IS "*CHEVRON* DEFERENCE"?

In *Chevron*, the Supreme Court established a two-part analysis to govern the scope of a court's review of an administrative agency's construction of a statute that it administers. First, if the legislature has spoken clearly on the question at issue, the inquiry ends there.[2] Both the agencies and the courts are bound to give effect to a statute's clear directive when the intent of the legislature is unambiguous.[3]

However, if the statute at issue is either silent or ambiguous with respect to the question before the court, the court should only ask whether the agency's regulation is "based on a permissible construction of the statute."[4] Where the legislature has expressly delegated authority to the agency to interpret the statute, regulations issued pursuant to that authority are sometimes called "legislative regulations" and the Court held that they "are given controlling weight unless they are arbitrary, capricious, or manifestly contrary to the statute."[5] If there has been an implicit legislative delegation to an administrative agency, a court still may not substitute its own construction of the statute as long as the agency's interpretation is "reasonable."[6]

Many states invoke some similar approach to *Chevron* deference in analyzing an agency's exercise of interpretive rulemaking authority, granting some level of deference to the agency's interpretations.

The core of the Court's justification for *Chevron* deference is a respect for the will of the legislature, as well as the practical realities of administrative policy formulation:

> The power of an administrative agency to administer a congressionally created . . . program necessarily requires the formulation of policy and the making of rules to fill any gap left, implicitly or explicitly, by Congress.[7]

In formulating such policy, the Court has recognized that statutory interpretation may require specialized knowledge, which the administrative agencies—not the courts—have.[8]

Although *Chevron* involved regulations issued by the Environmental Protection Agency pursuant to the Clean Air Act, the U.S. Supreme Court later held that the *Chevron* framework applies with equal force to tax regulations promulgated by the U.S. Treasury Department.[9] Many states invoke some similar approach to *Chevron* deference in analyzing an agency's exercise of interpretive rulemaking authority, granting some level of deference to the agency's interpretations.[10]

IS DEFERENCE LIMITED TO ADMINISTRATIVE REGULATIONS?

The *Chevron* case involved duly promulgated federal administrative regulations. The U.S. Supreme Court has also extended deference to an agency's informal interpretation of its own regulations.[11] At issue in *Auer v. Robbins* was whether sergeants and lieutenants of the St. Louis Police Department were entitled to overtime under the Fair Labor Standards Act ("FLSA") or, as the St. Louis Board of Police Commissioners contended, were exempt from the FLSA's overtime pay requirements as "bona fide executive, administrative, or professional" employees.[12] Under regulations issued by the Secretary of Labor, such employees were exempt from overtime requirements if, among other things, they earned part of their compensation as salary that could not be reduced because of the quality or quantity of work performed.[13] The Secretary of Labor interpreted this test to deny exempt status when employees are covered by a policy that permits deductions in pay "as a practical matter," and there is either an actual practice of making such deductions or a policy that creates a "significant likelihood" of deductions.[14] Because the police officers at issue could have their pay reduced for various disciplinary violations in certain circumstances, they argued that they were subject to the overtime requirement of the FLSA.[15]

The Court held that the Secretary's interpretation under his own regulations was "'controlling unless plainly erroneous or inconsistent with the regulation.'"[16] Under this deferential standard, the Court held that the police officers were exempt from overtime pay requirements because the police department's employment policies did not communicate that deductions in pay were likely to be applied. Although the police officers argued that the Secretary's interpretation was not entitled to deference since it was advanced in a legal brief, the Court held that deference was warranted in the circumstances of that case because the Secretary's interpretation was not a *post hoc* rationalization, and there was no evidence that the Secretary's interpretation "does not reflect the agency's fair and considered judgment on the matter in question."[17]

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The U.S. Supreme Court was recently asked directly to overrule *Auer* and declined to do so.[18] However, the Court recognized that it has sent "mixed messages" on the principles of *Auer* deference, and that the Court "has given *Auer* deference without careful attention to the nature and context of the interpretation."[19] While the Court refused to overrule *Auer*, it limited its application to situations in which the regulation at issue is "genuinely ambiguous," which was not a phrase used in the *Auer* opinion itself.[20]

A REVOLT AGAINST DEFERENCE

Although the arguments against *Chevron* deference have been percolating for years, they have gained steam recently at both the federal and state levels. Those arguing against deference to agency interpretations offer a wide range of justifications for abandoning the practice. Recently, in *Pereira v. Sessions*, Justice Kennedy questioned the continuing wisdom of *Chevron* deference, proffering that "reflexive deference" implicates constitutional separation of power concerns because it interferes with the courts' role of interpreting statutes.[21]

Litigants continue to push these arguments in the federal courts,[22] and both Congress and the IRS have begun to act on the issue. The Separation of Powers Act has been introduced in the U.S. Senate and would amend the federal Administrative Procedure Act to require courts to "decide *de novo* all relevant questions of law," including those involving rules made by agencies.[23] The IRS has also promulgated a policy statement stating that it would not seek deference for so-called "subregulatory" guidance, such as revenue rulings, revenue procedures, and notices.[24]

The fight against administrative deference has been no less active (or less hard fought) at the state level. Some states have mandated that reviewing courts abandon deference to administrative agencies through constitutional amendments or legislation. Florida has recently amended its constitution through a voter initiative to provide that

> a state court or an officer hearing an administrative action pursuant to general law may not defer to an administrative agency's interpretation of such statute or rule, and must instead interpret such statute or rule de novo.[25]

Arizona has recently amended statutes governing judicial review of administrative decisions to provide that courts must decide all questions of law "without deference to any previous determination" that may have been made by the agency.[26]

In other states, the battle over administrative deference has been fought in the courts, with the opponents of administrative deference already garnering important victories. In *Tetra Tech EC, Inc. v. Wisconsin Department of Revenue*,[27] the Wisconsin Supreme Court (in a sharply divided opinion) abandoned its traditional practice of granting deference to the interpretations of administrative agencies. Instead, the court held that its review of "an administrative agency's conclusions of law [will use] the same standard [that appellate courts] apply to a circuit court's conclusions of law—de novo."[28] While a majority of the justices agreed that the court should abandon its practice of deferring to the reasonable decisions of administrative agencies, they could not agree on why.

Justice Kennedy questioned the continuing wisdom of *Chevron* deference, proffering that "reflexive deference" implicates constitutional separation of power concerns.

The lead opinion reasoned that the deference granted to administrative agencies violated the separation of powers under the Wisconsin Constitution by transferring core judicial powers to a coordinate branch of government. However, other justices concurred in the result but argued against "ignor[ing] controlling precedent to reach a result that upends decades of administrative law jurisprudence."[29] Interestingly, the issue of whether the court should abandon its practice of administrative deference was raised by the court, not the parties.[30]

Litigants in other states have also had success arguing against deference to "subregulatory" guidance. In *Matter of Catalyst Repository Systems, Inc.*,[31] the issue was whether the company's receipts were derived from the performance of services, as the company contended, or from "other business receipts" as contended by the New York State Department of Taxation and Finance ("Department"). The company was engaged in the business of electronic document and data management. The Department relied in part on several of its own Advisory Opinions that involved "digital transactions" and had concluded that receipts from such "digital transactions" should be sourced as "other business receipts" to the location of a taxpayer's customer. Although the Department acknowledged that Advisory Opinions are not precedential, it nonetheless urged the Tax Appeals Tribunal to accept them as "persuasive authority." The Tax Appeals Tribunal agreed with the

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MASSACHUSETTS INSIGHTS IN BRIEF

By Matthew F. Cammarata

Massachusetts Appeals Court Upholds Appellate Tax Board's Dismissal of Refund Claims

The Massachusetts Appeals Court upheld the dismissal by the Appellate Tax Board ("Board") of refund claims made by Raytheon Company ("Raytheon"). Raytheon had appealed deficiency assessments to the Board. While the appeals were pending, other events made it clear that Raytheon had overpaid its taxes for the years at issue. The Commissioner abated the deficiency assessments and then sought dismissal of Raytheon's appeals. Raytheon argued that it was entitled to further abatements and refunds of tax paid with its original returns, and that its appeals of the deficiency assessments also applied to the amounts reported as due on its original returns. The Appeals Court affirmed the Board's dismissal of the appeals, holding that Raytheon's applications for abatement of the deficiency assessments only applied to the amounts shown on the assessments, and not to the amounts originally reported as due on Raytheon's returns.[1]

Board Sides with Commissioner in Apportionment Dispute

The issue in *Synqor, Inc. v. Commissioner*, Massachusetts Appellate Tax Board Docket No. C331460 (Oct. 2, 2019), was how to apportion certain damages recovered by Synqor, Inc. ("Synqor") in a federal court litigation. Synqor owned certain intellectual property that it used in its business, and brought suit in federal court in Texas seeking damages for the unauthorized use of its intellectual property. Synqor recovered damages from certain defendants, received settlement payments from certain defendants, and also received royalties from customers of certain defendants. Massachusetts used costs of performance apportionment during the years at issue, and the Commissioner's apportionment regulation provided that "gross receipts from the enforcement of legal rights by taxpayers domiciled in Massachusetts are presumed attributable to Massachusetts" regardless of the forum in which the taxpayer seeks to enforce its legal rights, unless the legal dispute relates directly or exclusively to real or tangible personal property outside of Massachusetts. The Board held that because Synqor was commercially domiciled in Massachusetts, and the dispute did not involve real or tangible personal property, the regulatory presumption applied and the receipts at issue should be sourced to Massachusetts.

Massachusetts Department of Revenue ("DOR") Releases Draft Guidance on the Application of Internal Revenue Code Section 163(j) Interest Expense Limitations

The Tax Cuts and Jobs Act ("TCJA") amended Internal Revenue Code Section 163(j) to limit the deductibility of net business interest expense to 30% of a taxpayer's adjusted taxable income. Net business interest expense is business interest expense less business interest income and floor plan financing interest.

Working Draft Technical Information Release ("TIR") 19-XX explains that Massachusetts will generally follow the federal limitation on the deductibility of interest expense with certain modifications.[2] The TIR explains general calculation rules for the business interest expense limitation, applicability of the business interest expense limitation to members of a Massachusetts combined group, the carryforward of business interest expense, and the interaction of other Massachusetts limitations with the business interest expense limitation. The TIR also contains examples illustrating these rules.

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Massachusetts Enacts Marketplace Facilitator Legislation and Promulgates Regulations

Effective October 1, 2019, remote retailers and marketplace facilitators having and/or facilitating more than $100,000 of sales in Massachusetts in the prior or current taxable year are subject to sales tax registration, collection, and remittance requirements.[3] A "marketplace facilitator" is "a person that contracts with a marketplace seller to facilitate sales of tangible personal property or services on behalf of the marketplace seller through a marketplace operated by such person." The Department's regulations explain the new requirements in detail and provide several examples demonstrating the application of the new requirements for both marketplace facilitators and remote sellers. The DOR has also proposed repeal of its original remote seller regulation, 830 CMR 64H.1.7: Vendors Making Internet Sales.

Massachusetts Department of Revenue Promulgates Proposed Net Operating Loss Regulation

The DOR has proposed a new regulation governing net operating loss deductions and carryforwards that reflects statutory and other changes since the original regulation was first promulgated in 1993.[4] The regulation has been updated to provide that the carryforward period has been extended from five years to twenty years, and contains other edits to conform the regulation to combined reporting rules.

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1 *Raytheon Company v. Comm'r of Revenue*, 96 Mass. App. Ct. 72 (Sept. 12, 2019).
2 Working Draft TIR 19-XX: Application of IRC § 163(j) Interest Expense Limitation to Corporate Taxpayers (Oct. 3, 2019).
3 Mass. Gen. Laws ch. 64H, § 34.
4 830 Mass. Code Regs. 63.30.2: Net Operating Loss Deductions and Carryforward (Proposed Regulation) (Nov. 8, 2019).

Department that the receipts constituted "other business receipts," but expressly refused to rely on the Department's Advisory Opinions to source the receipts in question to the location of customers, holding that the Advisory Opinions "are not persuasive because they offer no statutory or regulatory justification for the conclusion that receipts for digital transactions as described in the opinions are properly sourced to the customer's location; they simply assert it."[32]

However, not all states have abandoned the practice of deferring to administrative agencies. For example, in *Citrix Systems, Inc. v. Commissioner of Revenue*,[33] the Massachusetts Appellate Tax Board (the "Board") held that the services offered by Citrix were subject to Massachusetts sales tax as standardized computer software. The Massachusetts sales tax statute at issue subjected all "transfers of title or possession, or both . . . of tangible personal property" to sales tax.[34] The Massachusetts Commissioner of Revenue promulgated a regulation that subjected "transfers of rights to use software installed on a remote server" to sales tax.[35] Citrix argued that the regulation was *ultra vires* and invalid because it subjected transactions to sales tax even when those transactions do not involve a "transfer of title or possession, or both" of tangible personal property, which is an unambiguous requirement of the sales tax statute.

The Board disagreed and held that "regulations are not to be declared void unless their provisions cannot by any reasonable construction be interpreted in harmony with the legislative mandate."[36] Under this extremely broad standard of deference, the Board easily found that the regulation at issue was within the scope of the statute. Citrix has appealed and the case was recently argued before the Massachusetts Supreme Judicial Court.

HOW DOES THIS IMPACT TAX POSITIONS RIGHT NOW?

The practice of administrative deference has been an ingrained part of state and local tax practice for many years. As states grapple with whether to continue the practice, companies should pay close attention to developments in the states where they conduct business as they formulate tax positions and approach administrative controversies. In states that grant a high degree of deference to administrative interpretations,

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regulations (and perhaps other administrative guidance) have more force, and a tax position contrary to administrative guidance may have a lower chance of success on the merits.[37] However, as states such as Arizona, Florida, and Wisconsin abandon the practice of administrative deference, companies should be aware that a state agency's questionable interpretation of its own statute is just that—the agency's interpretation.

Under a *de novo* standard of review without any deference accorded to the administrative interpretation, the taxpayer's interpretation of the statute is on a level playing field with that of the administrative agency.

Under a *de novo* standard of review without any deference accorded to the administrative interpretation, the taxpayer's interpretation of the statute is on a level playing field with that of the administrative agency. In such situations, statutory interpretations that reflect a reasonable interpretation of the statute and are supported by the facts, but run contrary to published administrative guidance, may have a higher chance of success on the merits.

Companies should also pay close attention to how the battle over administrative deference advances in the federal courts.[38] Just as *Chevron* served as a guide to the states in amplifying the amount of deference afforded to administrative interpretations in both state and federal courts, so too will any future decision of the U.S. Supreme Court that either abandons or lowers the standards for administrative deference.

1 467 U.S. 837 (1984).

2 *Id.* at 842-43.

3 *Id.*

4 *Id.* at 843.

5 *Id.* at 843-44.

6 *Id.* at 844.

7 *Id.* at 843 (*quoting Morton v. Ruiz*, 415 U.S. 199, 231 (1974)).

8 *Id.* at 844.

9 *Mayo Found. for Med. Educ. & Research v. United States*, 562 U.S. 44, 57 (2011).

10 *See, e.g.*, *Vodafone Ams. Holdings, Inc. v. Roberts*, 486 S.W.3d 496 (Tenn. 2016); *Decker Lake Ventures, LLC v. Utah State Tax Comm'n*, 356 P.3d 1243 (Utah 2015).

11 *Auer v. Robbins*, 519 U.S. 452, 461 (1997).

12 *Id.* at 455.

13 *Id.*

14 *Id.* at 461.

15 *Id.* at 455.

16 *Id.* at 461 (citation omitted).

17 *Id.* at 462.

18 *Kisor v. Wilkie*, 139 S. Ct. 2400 (2019).

19 *Id.* at 2414.

20 *Id.* at 2415-2418 (also instructing that even in situations in which the regulation is genuinely ambiguous, the agency's reading must still be "reasonable," implicate the agency's "substantive expertise," and reflect a "fair and considered judgment" (citations omitted)).

21 138 S. Ct. 2105, 2120-21 (2018) (Kennedy, J., concurring).

22 *Altera Corp. v. Comm'r*, 926 F.3d 1061 (9th Cir. 2019); *Amazon.com, Inc. v. Comm'r*, 934 F.3d 976 (9th Cir. 2019).

23 S. 909, 116th Cong. (2019). A similar bill has also been introduced in the House. *See* H.R. 1927, 116th Cong. (2019).

24 U.S. Dep't of Treas., *Policy Statement on the Tax Regulatory Process* (Mar. 5, 2019).

25 Fla. Const., art. V., § 21.

26 Ariz. Rev. Stat. § 12-910(E).

27 914 N.W.2d 21 (Wis. 2018).

28 *Tetra Tech*, 914 N.W.2d at 54.

29 *Id.* at 64 (Bradley, J., concurring).

30 *Id.* at 28 (majority opinion).

31 DTA No. 826545 (N.Y.S. Tax App. Trib. July 24, 2019).

32 *Catalyst*, slip op. at 18-19.

33 Nos. C321160, C325421 (Mass. App. Tax Bd. Nov. 2, 2018).

34 Mass. Gen. Laws ch. 64H, § 1.

35 830 Mass. Code Regs. 64H.1.3.

36 *Citrix*, slip op. at ATB 2018-553.

37 On the other hand, if a taxpayer is relying on a regulation in such a state, it could also have more confidence that a court will hold the state taxing authority to that position.

38 A recently decided and closely watched case out of the 9th Circuit involving administrative deference, *Altera Corp. v. Commissioner*, 926 F.3d 1061 (9th Cir. 2019), was denied rehearing en banc and a petition for certiorari may be filed.

CALIFORNIA INSIGHTS IN BRIEF

By William H. Gorrod

California Proposes Amendments to Technology Transfer Agreement Sales and Use Tax Regulation

The California Department of Tax and Fee Administration ("DTFA") has proposed amendments to section 1507, title 18 of the California Code of Regulations regarding the sales and use tax treatment of intangible software transferred on tangible storage media pursuant to a technology transfer agreement ("TTA"), which assigns or licenses the right to make or sell a product or use a process that is subject to a patent or copyright. Under the law, California sales and use tax is not imposed on intangible property transferred pursuant to a TTA if the TTA separately states a reasonable price for the tangible storage media.[1] The draft amendments to the regulations seek to narrow the scope of the exemption regarding whether sales and use tax applies to software transferred with storage media or preloaded onto computers or other devices, such as cell phones and cars, and provide additional detail regarding the allocation of the purchase price between non-taxable software and taxable tangible personal property. The DTFA held an interested parties meeting on November 5, 2019 to discuss the draft regulation.

California Revises Draft Alternative Apportionment Regulation: Confidentiality Waiver Remains

The California Franchise Tax Board ("FTB") recently issued a revised draft regulation regarding the procedures for a taxpayer to petition for alternative apportionment under section 25137(d), title 18 of the California Code of Regulations. Under the proposed procedures, a taxpayer may file a petition with the FTB Chief Counsel asserting why the taxpayer should be entitled to an alternative apportionment methodology or why the alternative apportionment methodology imposed by the FTB is inappropriate. If FTB staff has not previously made a determination regarding the taxpayer's petition for alternative apportionment, then the FTB Chief Counsel is required to ensure that FTB staff considers and makes a determination regarding whether alternative apportionment is appropriate.

Generally, a taxpayer is required to file the petition no later than: (1) 60 days after a written adverse action determination by FTB staff; (2) 120 days from filing a refund claim; or (3) 60 days prior to a scheduled protest hearing. The revised draft regulation does not modify the requirement under the previous version of the draft regulation that a taxpayer petitioning for an alternative apportionment methodology submit a waiver of confidentiality. The draft regulation also provides detail regarding ex-parte communications, the briefing schedule, and administrative requirements for submission of briefs. The FTB held another interested parties meeting on December 4, 2019 to discuss the draft regulation.

California Amends Withholding Regulations

On October 8, 2019, the FTB promulgated amendments to the withholding requirements under sections 18662-0, et seq., title 18 of the California Code of Regulations. The amendments clarify the procedures for a nonresident to request reduced nonwage and real estate withholding, and also simplify the withholding form requirements. The revisions also change the pass-through entity nonresident owner withholding requirements from a quarterly to annual filing (although payments must still be remitted quarterly). The amended regulation also clarifies the requirements for a nonresident entertainer to qualify for an exemption from withholding.

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1 *See* Cal. Rev. & Tax. Code §§ 6011, 6012.

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Archer Daniels Midland Co. v. Pennsylvania (PA Bd. of Fin. & Rev. 2018)

Astoria Financial Corp. v. New York City (NYC Tax App. Trib. 2016)

Clorox Products Manufacturing, Co. v. New Jersey (NJ App. Div. 2008)

Crestron Electronics, Inc. v. New Jersey (NJ Tax Ct. 2011)

Daimler Investments US Corp. v. New Jersey (NJ Tax Ct. 2019)

Dollar Tree Stores Inc. v. Pennsylvania (PA Bd. of Fin. & Rev. 2015)

Duke Energy Corp. v. New Jersey (NJ Tax Ct. 2014)

E.I. du Pont de Nemours & Co. v. Michigan (MI Ct. of App. 2012)

E.I. du Pont de Nemours & Co. v. Indiana (IN Tax Ct. 2017)

EchoStar Satellite Corp. v. New York (NY Ct. of App. 2012)

Former CFO of Fortune 500 Co. v. New York (NYS Div. of Tax App. 2017)

frog design, inc. v. New York (NYS Tax App. Trib. 2015)

Hallmark Marketing Corp. v. New York (NYS Tax App. Trib. 2007)

Kohl's Department Stores, Inc. v. Virginia (VA Sup. Ct. 2018)

Lorillard Licensing Co. v. New Jersey (NJ App. Div. 2015)

Lorillard Tobacco Co. v. New Jersey (NJ Tax Ct. 2019)

MeadWestvaco Corp. v. Illinois (U.S. 2008)

Meredith Corp. v. New York (NY App. Div. 2012)

Nerac, Inc. v. New York (NYS Div. of Tax App. 2010)

Rent-A-Center, Inc. & Subsidiaries v. Oregon (OR Tax Ct. 2015)

Reynolds Innovations Inc. v. Massachusetts (MA App. Tax Bd. 2016)

Reynolds Metals Co. v. Michigan (MI Ct. of App. 2012)

Scioto Insurance Co. v. Oklahoma (OK Sup. Ct. 2012)

Thomson Reuters Inc. v. Michigan (MI Ct. of App. 2014)

United Parcel Service General Svcs. v. New Jersey (NJ Sup. Ct. 2014)

Wendy's International, Inc. v. Illinois (IL App. Ct. 2013)

Wendy's International, Inc. v. Virginia (VA Cir. Ct. 2012)

Whirlpool Properties, Inc. v. New Jersey (NJ Sup. Ct. 2011)

W.R. Grace & Co.-Conn. v. Massachusetts (MA App. Tax Bd. 2009)

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