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***Significant Cases in the Southeast  
and Around the Country***

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## South Dakota v. Wayfair and Aftermath

- **Facts:** Wayfair sold remotely into South Dakota, but had no real estate or employees in the state. South Dakota enacting a statute imposing sales tax responsibilities on remote sellers meeting certain income or transaction count thresholds. Wayfair challenged the statute as violating precedents set in Quill and Bellas Hess.
- **Holding:** Quill and Bellas Hess were explicitly overruled. No physical presence requirement is necessary for a state to require a seller to collect and remit sales tax. The South Dakota statute satisfied the substantial nexus requirement for imposing sales tax responsibilities on remote sellers.
- **Status:** Final.

# Alabama Judicial Update

## Newegg Inc. v. Dep't of Revenue

- **Facts:** Newegg challenged Alabama's online sales tax regulations. The regulations stated that if a remote retailer sells more than \$250,000 worth of products to residents of Alabama per year, then the retailer must collect sales tax from Alabama customers.
- **Holding:** The Tax Tribunal voided the assessment, stating that the record did not show that the regulations were applicable to Newegg. The Department of Revenue agreed to delay its enforcement of the online sales tax until the United States Supreme Court issues its decision in *South Dakota v. Wayfair*.
- **Status:** Final.

# Alabama Judicial Update

## Dep't of Revenue v. Coca-Cola Refreshments USA Inc.

- **Facts:** Coca-Cola sought to allow its subsidiaries in Alabama to deduct its net operating losses for the years 1999-2002, and 2004. The Department of Revenue argued that the deductions were not allowed under § 40-18-39, because the subsidiaries filed separate tax returns in those years.
- **Holding:** An affiliated group can deduct net operating losses on their consolidated return, even when those losses were incurred during years where the members filed separate returns.
- **Status:** Final.

## P.J. Lumber Co. Inc. v. City of Prichard

- **Facts:** P.J. Lumber sold lumber both within the United States and internationally. The company challenged its payment of city business-license taxes that were based on its gross revenue from international sales. The city denied a refund. P.J. Lumber argued that the use of revenue from exported goods in calculating the tax ran afoul of the Import-Export Clause of the U.S. Constitution.
- **Holding:** The city's business-license tax does not violate the U.S. Constitution's Import-Export Clause because the tax is not discriminatory and does not interfere with the federal government's ability to conduct foreign policy.
- **Status:** Final.

# Arkansas Judicial Update

## Walther v. FLIS Enterprises, Inc.

- **Facts:** Burger King provided a perk to managers of one free meal per shift, selected from the same menu available to Burger King's customers. At issue was whether the tax for the meals should have been assessed at (1) the wholesale cost to purchase the individual meal ingredients, or (2) the retail sales price paid by customers to purchase identical meals.
- **Holding:** The Supreme Court held that the proper measure of taxation was the retail value of the meals, because Burger King creates the meal, then withdraws it from sale to its customers. The court further noted that if Burger King had charged the managers \$0.01 per meal, then it would only have been taxed based on that \$0.01.
- **Status:** Final.

# Arkansas Judicial Update

## DeSoto Gathering Co., LLC v. Hill

- **Facts:** DeSoto owned gas equipment that was subject to ad valorem property tax in Faulkner County. In 2012, DeSoto lost an appeal on the valuation of the property. DeSoto then applied for a refund after it discovered that the equipment was not actually located in Faulkner County. The assessor argued that the action was barred by Rule 12(b)(8).
- **Holding:** Valuation claims and refund claims are governed by different statutes. Because each claim is governed by different statutes, the Supreme Court held that both claims may be brought in separate actions between the same parties, and are not barred by Rule 12(b)(8).
- **Status:** Final.

## Fayetteville Express Pipeline, LLC v. Arkansas Public Service Commission

- **Facts:** Owner of pipeline argued that Tax Division should consider market conditions and decreased use in the pipeline in assessing ad valorem taxes. The owner provided evidence that 770 miles of the pipeline had to be abandoned due to a decline in demand.
- **Holding:** The court held that the Tax Division could, in its discretion, consider economic or functional obsolescence when assessing property taxes.
- **Status:** Final.

# Florida Judicial Update

## Treasure Coast Marina, LC v. City of Fort Pierce

- **Facts:** Private marina owner challenged the constitutionality of two city-owned marinas' exemption from ad valorem taxes.
- **Holding:** The Supreme Court held that a public marina owned and operated by a municipality carries a presumption of tax-exempt status, because they serve a public purpose. The fact that a public marina is competing against a private marina is not enough to rebut the presumption.
- **Status:** Final.

## Beach Club Homeowners Association, Inc. v. Jones

- **Facts:** County has title to all property in its jurisdiction. Homeowners association brought action against County property appraiser and tax collector, seeking judgment that land underlying condominiums were government-owned and thus could not be subject to ad valorem taxation.
- **Holding:** A lease does not subject a homeowners association, or the individual condominium unit owners, to ad valorem property taxation.
- **Status:** Pending Appeal.



# Georgia Judicial Update

## Columbus Board of Tax Assessors v. Medical Center Hospital Authority

- **Facts:** Hospital sought judgment that its leasehold interest in property was public property that was exempt from taxation. The property was the subject of a bond validation order which found that it was to be used in service to the public.
- **Holding:** Bond validation proceedings are not conclusive in determining whether land is public property that is exempt from taxation. To be tax-exempt, property must be held in the interest of public purposes, rather than for private gain or income.
- **Status:** Remanded.

## New Cingular Wireless PCS, LLC v. Dep't of Revenue

- **Facts:** Wireless internet providers filed suit against the Department of Revenue seeking a refund of sales taxes erroneously collected from its customers. The Department argued that the internet providers had to prepay the refund amount to its customers before the Department would consider the claim.
- **Holding:** Dealers (including wireless internet providers) are not required to prepay any claimed refund amount to its customers prior to the Department of Revenue's determination of whether such refund will be approved.
- **Status:** Remanded to consider the issue of standing.

# Kentucky Judicial Update

## Commonwealth v. Interstate Gas Supply, Inc. for Use & Benefit of Tri-State Healthcare Laundry, Inc.

- **Facts:** The DOR deemed Tri-State an “institution of purely public charity” under Ky. Const. § 170 and exempted it from ad valorem taxation. Relying on this “public charity” status, Tri-State sought an exemption from the Kentucky use tax for its natural gas purchases.
- **Holding:** Although institutions of purely public charity are exempted from property taxes, they are not exempt from the use tax. Use tax is purely an excise tax, complementary to sales tax, and is beyond the scope of ad valorem taxation under § 170 of the Kentucky Constitution.
- **Status:** Final.

## CSX Transportation, Inc. v. Fin. & Admin. Cabinet, Dep't of Revenue

- **Facts:** CSX sought a sales tax refund because it believed that the following items were exempt as “supplies for the direct operation of locomotives and trains” under KRS 139.480(1): weed control chemicals, railroad track, ties, cross ties, tie plates, spikes, switches, ballast, piling, railroad crossing signs, and signal materials. The DOR argued the items are “materials,” not “supplies,” and are used on train tracks, not on the actual locomotive or train.
- **Holding:** CSX was not entitled to a sales tax refund for purchases of railroad track and signal items, because only items used directly on or in a locomotive or train car qualify for the sales tax exemption.
- **Status:** Final.

# Kentucky Judicial Update

## Kentucky CATV Ass'n, Inc. v. City of Florence

- **Facts:** The Telecom contained a provision prohibiting local governments from levying or collecting franchise fees or taxes from MVP and communications providers. The City alleged that the Telecom Tax violated their rights as provided in Sections 163 and 164 of the Kentucky Constitution, which authorizes municipalities to collect franchise fees in exchange for use of their rights-of-way.
- **Holding:** The portion of the Telecom Tax prohibiting municipalities from imposing franchise fees on MVP services, including fees intended as compensation for the use of the municipalities' rights-of-way, is unconstitutional and should be severed from the Telecom Tax.
- **Status:** Final.

## Dep't of Revenue, Fin. v. Revelation Energy, LLC,

- **Facts:** Revelation purchased special fuel for non-highway purposes related to its coal mining operations. Revelation was charged with the special fuel tax and the petroleum environmental assurance fee, and these costs were added onto the selling price of the special fuel. Revelation was unaware that its non-highway use meant that the purchases were exempt from the tax and fee and discovered that it had to obtain a pre-purchase refund permit in order to claim a refund, which it did not obtain prior to the sale.
- **Holding:** The Kentucky Court of Appeals reversed a lower court's decision refunding over \$1 million in taxes and fees to Revelation because Revelation failed to follow the pre-purchase refund permit requirements necessary to receive a refund for environmental assurance fees and taxes owed on fuel. The pre-purchase refund permit is a valid and constitutional procedural requirement that does not run afoul of due process.
- **Status:** Final.

# Louisiana Judicial Update

Beer Industry League of Louisiana and Wine and Spirits Foundation of Louisiana, Inc. v. The City of New Orleans, et al.

- **Facts:** The City of New Orleans sought to levy “an occupational license tax or excise tax on dealers of alcoholic beverages ...” (i.e., a “gallonage tax”). Plaintiffs challenged the constitutionality of the new imposition, arguing that the new levy was an occupational license tax (“OLT”) that was not permitted by the Louisiana Constitution. The trial court held that the City’s gallonage tax was unconstitutional. The City appealed the case directly to the La. Sup. Ct.
- **Holding:** The Court reversed the trial court and upheld the constitutionality of the gallonage tax. The Court concluded that (a) the State’s gallonage tax is an OLT on dealers for the privilege of handling high alcoholic content beverages, (b) the City’s gallonage tax also is an OLT on dealers engaged in the handling of high alcoholic content beverages, and (c) the City’s gallonage tax is permitted by the La. Const. so long as it does not exceed the amount of the State’s gallonage tax.”
- **Analysis:** The Court framed the questions as follows: If the state gallonage tax is an OLT, then the City is authorized by La. Const. Art. VI, § 28 to impose a similar tax. If the state gallonage tax is a tax directly on persons or property, then the City would be precluded from levying it under La. Const. Art. VI, § 28.
- **Status:** Final, unless rehearing requested and granted.

# Louisiana Judicial Update

## Louisiana Department of Revenue v. Apeck Construction, Inc.

- **Facts:** The main issue was whether costs for railcar transportation of products, passed on to customers, should be included as part of the “sales price” and subject to state sales tax. The Department relied on its own regulations to assert that the transportation costs were subject to sales tax as costs incurred by the vendor to bring the product to market or make the product available to customers. This language did not appear in the relevant statute.
- **Holding:** The Court reviewed the plain language of the statute defining “sales price” and held that the regulation exceeded the scope of the statute and was invalid.
- **Status:** Final.

## Majestic Medical Solutions, LLC v. Louisiana Department of Revenue

- **Facts:** The taxpayer received a formal assessment and failed to take any action. The assessment became final. The Department seized funds from the taxpayer’s bank account to satisfy the final assessment. The taxpayer filed an administrative claim for refund, which was “deemed denied” by the Department. The taxpayer appealed the deemed denial to the Louisiana Board of Tax Appeals.
- **Holding:** The Board held that it had subject matter jurisdiction, but granted the Department’s exception of no right of action. The Board held that the taxpayer was procedurally barred from seeking the refund because none of the final assessment was paid within the statutory appeal period.

# Louisiana Judicial Update

## Metals USA Plates & Shapes Southeast, Inc. v. Dep't of Revenue

- **Facts:** Louisiana statute was amended by two Acts. Metals USA sought a refund on taxes paid from its use of welding gas. The Department of Revenue argued that the amendments contradicted each other in regard to whether the exclusion for any gas applied only with respect to gases for residential use by consumers.
- **Holding:** Act No. 9, passed after Act No. 1 during the relevant legislative session, effectively repealed Act No. 1. Under the definition of “retail sale” in Act No. 9, the exclusion for gases applies only with respect to gases sold for residential use by the consumer.
- **Status:** Final.

## Central Properties v. Fairway Gardenhomes, LLC

- **Facts:** The tax collector failed to properly notify the interested parties to a tax sale. The tax-sale purchaser subsequently sent notice to the interested parties.
- **Holding:** Post-sale notice to the interested tax party may be effectuated by a tax sale purchaser, thus satisfying the notice requirement under La. Rev. Stat. 47:2122(4).
- **Status:** Final.

# Louisiana Judicial Update

## Normand v. Wal-Mart.com USA LLC

- **Facts:** Walmart.com Marketplace allows customers to purchase products from Walmart.com and from third-party Marketplace retailers. Walmart.com is compensated for its operation by receiving a commission from retailers on each sale, and it requires each customer to checkout through its online system and collects all proceeds from each sale. Walmart.com argued that it had no obligation to collect local sales and use taxes from online customers on Marketplace Program transactions, except for its own product sales.
- **Holding:** The district court found that Walmart.com was required to collect and remit uncollected local sales and use taxes for third-party sales transactions on its online marketplace, because Walmart.com is a “dealer” under applicable Louisiana law.
- **Status:** Pending.

# Mississippi Judicial Update

## King v. Miss. Military Department

- **Facts:** The underlying facts are not critical to this presentation. The Miss. Sup. Ct. was called upon to review the decision of an administrative agency to determine whether the decision was supported by substantial evidence, was arbitrary or capricious, was beyond the agency's power to adopt, or violates a constitutional or statutory provision.
- **Holding:** "Pursuant to the foregoing reasoning, we announce today that we abandon the old standard of review giving deference to agency interpretations of statutes. Our pronouncements describing the level of deference were vague and contradictory, such that the deference could be anywhere on a spectrum from "great" to illusory. Moreover, in deciding no longer to give deference to agency interpretations, we step fully into the role the Constitution of 1890 provides for the courts and the courts alone, to interpret statutes. Although not writing of Mississippi's constitutional separation of powers, we find persuasive the reasoning of then-Judge Gorsuch who wrote, in a separate opinion concurring with his own majority in Gutierrez-Brizuela v. Lynch, 834 F.3d 1142 (10th Cir. 2016), that, absent judicial deference to administrative agencies' interpretation of statutes, "[C]ourts would then fulfill their duty to exercise their independent judgment about what the law is." *Id.* at 1158 (Gorsuch, J., concurring)." (emphasis added)
- **Status:** Final.



# Mississippi Judicial Update

## Tunica County Board of Supervisors v. HWCC-Tunica, LLC

- **Facts:** County board of supervisors failed to follow statutory advertising requirements relating to new tax levies.
- **Holding:** The statutory advertising requirements are mandatory, not directory. The new tax levies were impermissible because the board of supervisors did not follow the statutory requirements.
- **Status:** Final.

## Natchez Hospital Co., LLC v. Adams County Board of Supervisors

- **Facts:** Hospital challenged its ad valorem assessment but failed to post the required bond under § 11-51-77.
- **Holding:** The Supreme Court held that a taxpayer who chooses to appeal a tax assessment must post the required bond under § 11-51-77. Failure to do so will deprive the courts of jurisdiction.
- **Status:** Final.

# North Carolina Judicial Update

## Kimberley Rice Kaestner 1992 Family Tr. v. N. Carolina Dep't of Revenue

- **Facts:** Assets held by plaintiff in an irrevocable inter vivos out-of-state trust consisted of various financial investments. The custodians of those assets were located in Boston, and documents related to the trust were located in New York. All of the plaintiff's tax returns and accountings related to the trust were prepared in New York. North Carolina attempted to tax income from trust pursuant to N.C.G.S. § 105-160.2, solely based on Plaintiff's North Carolina residence.
- **Holding:** An in-state beneficiary of an out-of-state trust does not give North Carolina sufficient minimum contacts to satisfy the due process requirements of both the U.S. Constitution and the North Carolina Constitution. The statute and the state's income tax was unconstitutional as applied to the trust.
- **Status:** Final.

# North Carolina Judicial Update

## Fid. Bank v. N. Carolina Dep't of Revenue

- **Facts:** Fidelity Bank earned \$724,098.00 in Market Discount Income from holding United States government bonds to maturity. On its 2001 North Carolina corporate income tax return, Fidelity treated this Market Discount Income as taxable income and then deducted it as interest earned on United States government obligations for the purposes of determining its net taxable income.
- **Holding:** Fidelity Bank was not entitled to deduct the Market Discount Income that it earned during the 2001 tax year as interest on United States obligations for North Carolina corporate income taxation purposes pursuant to N.C.G.S. § 105-130.5(b)(1). It is only deductible to the extent that it is “included in federal taxable income.”
- **Status:** Final.

# South Carolina Judicial Update

## Hock RH, LLC v. S.C. Dep't of Revenue

- **Facts:** A charter school and owner of campus property argued that they were entitled to a tax exemption refund from 2013 because, in 2014, the General Assembly amended section 59-40-140(K) of the South Carolina Code to clarify that real property leased by public charter schools is exempt from ad valorem taxation.
- **Holding:** The Court granted a refund of 2013 property taxes to the charter school and the owner of a campus property leased by the school. 59-40-140(K) never specified that *only* property owned by charter schools was so exempt. Thus, it was error to decline to apply the plain language required by the South Carolina Charter Schools Act to YPA's refund request.
- **Status:** Final.

## CSX Transportation, Inc. v. S.C. Dep't of Revenue

- **Facts:** CSX alleged that if it is not allowed to benefit from the SCVA cap, its 2014 property tax will be discriminatory against railroads.
- **Holding:** A tax benefit specifically excluding railroad property may run afoul of the 4-R Act. The court remanded for a determination as to whether the law actually resulted in discrimination to the taxpayer.
- **Status:** Remanded

# South Carolina Judicial Update

## Richland Cty. v. S.C. Dep't of Revenue

- **Facts:** Richland County brought action against Department of Revenue (DOR), seeking declaratory, injunctive, and mandamus relief after DOR stopped remitting transportation penny tax funds, and DOR counterclaimed for an injunction and a declaration that the County's expenditures of funds were unlawful.
- **Holding:** Based on statutory language, DOR's duty to remit penny tax funds is ministerial, and DOR must continue to remit transportation penny tax funds even though it discovered County expenditures which it believed to be a misuse of these funds. An injunction is appropriate to establish objective criteria for compliance with the Transportation Act, and the County must follow guidelines for determining whether expenses are properly allocable to a specific transportation project, or the direct administration of a specific transportation project.
- **Status:** Final.

# South Carolina Judicial Update

## Home Depot USA Inc. v. Dep't of Revenue

- **Facts:** Home Depot claimed that it was acting in its capacity as a contractor when it executed and completed installation contracts and should be taxed as such because a retail sale occurred when it purchased the installation contract materials from its vendors pursuant to either Section 12-36-110(1)(a) or 12-36-110(1)(e) of the SC Code.
- **Holding:** Home Depot owed sales tax and interest for the sale of materials used in its home improvement installation contracts because it purchased the materials at wholesale price, then re-sold the materials to its customers at the retail sales price, such that the re-sales constituted taxable retail sales. A contractor, on the other hand, is the final purchaser when he buys materials and pays sales tax on the retail sales price of the item.
- **Status:** Final.

# South Carolina Judicial Update

## DIRECTV, Inc. & Subsidiaries v. S.C. Dep't of Revenue

- **Facts:** DIRECTV filed amended corporate income tax returns for tax years 2006-2008, wherein DIRECTV's only change was the removal of all South Carolina customer subscription receipts. Resultingly, DIRECTV reduced its income tax and license fee liability by \$5,976,810 and sought a refund in the same amount.
- **Holding:** DIRECTV is not entitled to refund. Signal delivery by DIRECTV Inc. to South Carolina consumers is an income-producing activity taxable by the state, and the delivery of signal to South Carolina customers is represented by its South Carolina subscription receipts.
- **Status:** Final.

# South Carolina Judicial Update

Rent-A-Center West, Inc. v. SCDOR, 418 S.C. 320, 792 S.E.2d 260 (Ct. App. 2016), *reh'g denied* Jan. 20, 2017, *cert. denied* Dec. 13, 2017

- Like CarMax, this case involved question of whether SCDOR had met its burden to show that the statutory formula did not fairly represent taxpayer's business activity within SC and that its alternative method does.
- Case tried before ALC, which ruled in favor of SCDOR in 2012. RAC West appealed, and in 2016, the SC Court of Appeals reversed the ALC concluding that CarMax controlled this matter and that SCDOR had shown nothing more than it had in CarMax, i.e., that its method produced a greater tax amount. It specifically rejected SCDOR's argument that the so-called "East-West" strategy employed by the taxpayer because of its corporate structure justified rejecting the standard apportionment formula and replacing it with a method that SCDOR proposed.
- SC Supreme Court denied SCDOR's writ of certiorari in 2017.



# Tennessee Judicial Update

## Bookstaff v. Gerregano

- **Facts:** Bookstaff was PopCat's sole shareholder, which joined with Popular Enterprises. Subsequently, Popular Enterprises was sold and the proceeds were paid to PopCat. The DOR determined that the proceeds from the sale were business earnings and that PopCat owed additional franchise and excise taxes for 2008 and 2009. PopCat was thereafter dissolved. The Department sued Bookstaff to collect these taxes on January 5, 2017, and Bookstaff challenged the assessment on statute of limitations grounds.
- **Holding:** Because the Department obtained a judgment against PopCat for the unpaid taxes, and because statutes permit collection from a stockholder, the Department's 2017 lawsuit against Bookstaff was not barred by the 6-year statute of limitations. Also, the Department was not required to demonstrate that a fraudulent conveyance was made by PopCat to Mr. Bookstaff.
- **Status:** Final.

# Tennessee Judicial Update

## Chuck's Package Store v. City of Morristown

- **Facts:** Alcoholic beverage retailers, who were charged higher inspection fees than authorized by municipality's ordinance, brought action against municipality for recovery of excess collections. The retailers paid the excess fees, but did not do so under protest.
- **Holding:** Tennessee law required the retailers to have paid under protest any disputed taxes before filing suit to recover the overpayments. Because the retailers did not pay under protest, they are not entitled to refunds.
- **Status:** Final.

## Coal Creek Co. v. Anderson Cty.

- **Facts:** Coal Creek owns farmland that contains oil and gas deposits that produce a stream of income. The property was previously classified as farm property and assessed at a 25% rate. Beginning in 2009, the property's mineral value was assessed at the industrial or commercial rate of 40%. Coal Creek challenged the assessments and methodology used to include the oil and gas values in assessment.
- **Holding:** The assessment of the company's oil and gas remaining in the ground was an assessment of property tax, and not an unlawful addition of severance taxes. The tax assessments at issue were on oil and gas remaining in the ground, while a severance tax is levied when those minerals are extracted. Moreover, assessors cannot blindly ignore the land's actual use because Tennessee Constitution provides for the classification of property and imposition of tax according to use.
- **Status:** Final.

# Virginia Judicial Update

## Norfolk S. Ry. Co. v. City of Roanoke

- **Facts:** Norfolk Southern Railway Company (“Norfolk Southern”) claimed that an assessment imposed pursuant to the City’s storm water utility ordinance is “another tax that discriminate[s] against a rail carrier,” in violation of the Railroad Revitalization and Regulatory Reform Act of 1976, 49 U.S.C. § 11501(b)(4).
- **Holding:** The utility charge is a fee rather than a tax, and is therefore not actionable under the Act.
- **Status:** Pending Appeal.

## Kohl’s Dep’t Stores, Inc. v. Virginia Dep’t of Taxation

- **Facts:** Kohl’s claims that their royalties fall within the VA “subject-to-tax” exception to the add back statute because the royalties were included in Kohl’s Illinois taxable income, and thus were “subject to” the income taxes of other states. At the same time, a substantial amount of the royalties was not apportioned to, and thereby not legally “subject to,” the income tax of any state in which Kohl’s filed a return.
- **Holding:** The “subject-to-tax” exception applies only to the extent that the royalty payments were actually taxed by another state and applies on a post-apportionment, rather than a pre-apportionment, basis.
- **Status:** Remanded on other grounds.

# West Virginia Judicial Update

## Ashland Specialty Co. Inc. v. Steager

- **Facts:** Cigarette distributor appealed the Commissioner's original 500%- of-retail-value penalty against distributor for unlawfully selling 12,260 packs of cigarettes not on the approved for sale list.
- **Holding:** The imposition of \$159,398 penalty against distributor was supported by substantial evidence and based on reason; Commissioner's failure to provide notice to distributors of the de-listing of a brand of cigarettes from the approved sale list did not constitute "reasonable cause" to excuse distributor's unlawful distribution of delisted cigarettes. The \$159,398 penalty was not grossly disproportionate to the gravity of the offense under either the State Constitution's Excessive Fines Clause, or the Eighth Amendment to the U.S. Constitution.
- **Status:** Final.

## Pratt & Whitney Engine Servs. v. Steager

- **Facts:** Owner of jet engine repair company appealed decision of state tax commissioner holding that inventory of jet engine repair parts was not exempt from ad valorem taxation.
- **Holding:** Inventory of parts was not constitutionally exempt from ad valorem taxation as tangible personal property moving in interstate commerce. Repair parts are not exempt from ad valorem taxation under the Freeport Amendment because they are used in the repair process at Pratt's facility to create a product with a different utility.
- **Status:** Final.

# West Virginia Judicial Update

## Global Capital of World Peace Inc. v. Wagoner

- **Facts:** Global Capital owns property that contains buildings which house residents at no charge, and buildings for hosting meditation retreat weekends and meditation courses. Those courses are offered to single men only and are conducted by the Maharishi Purusha Program who screens applicants and charges a course fee for the participants. Global Capital applied for exemption of ad valorem tax for the property and was denied by the Hampshire County Assessor and the Tax Commissioner.
- **Holding:** Global Capital was not entitled to an ad valorem property tax exemption because parts of the subject property were held or leased out for profit, thus the property wasn't being used exclusively for charitable purposes under West Virginia statute. The property restricts the potential class of beneficiaries and such restrictions “must be carefully scrutinized to ensure that the charity uses its property in such a way that it provides a service to the public at large.”
- **Status:** Final.

# QUESTIONS?

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