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A Washington National Tax Services (WNTS)
Publication

June 29, 2012

Ohio's sales tax does not discriminate against satellite broadcasters



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In brief

The imposition of Ohio's sales tax on satellite broadcasting services, but not on cable broadcasting services, does not favor in-state interests at the expense of out-of-state interests per the Ohio Supreme Court's 2010 *DIRECTV* decision. On June 25, 2012, the United States Supreme Court denied review of the Ohio Supreme Court decision in *DIRECTV v. Levin*, 941 N.E.2d 1187 (Ohio 2010), thus making final the Ohio Supreme Court's decision.

In detail

Since August 1, 2003, Ohio imposes sales tax on 'satellite broadcasting services,' and not on transactions involving the distribution of pay-television programming using ground receiving or distribution equipment. Accordingly, the sale of cable television programming is not subject to Ohio sales tax. In *DIRECTV*, satellite companies challenged the tax on such services, asserting that the imposition favored in-state economic interests in violation of the Commerce Clause.

The Ohio Supreme Court found that application of the sales tax on satellite services does not depend on the geographic location of the programming provider. A sale of satellite broadcasting services would be taxable regardless of whether the provider is in-state or out-of-state. Furthermore, the court observed that a cable company is not



necessarily a local interest because major cable providers are interstate companies selling an interstate product to an interstate market.

The court also found that the tax does not make a distinction between local and interstate commerce, but rather distinguishes only on the mode of distributing television programming. Consequently, the court held that the differing tax treatments on satellite and cable broadcasting services, resulting solely from the use of different technologies under different business models and not on provider location, does not violate the Commerce Clause of the United States Constitution.

On June 25, 2012, the U.S. Supreme Court [denied the petition to review](#) *DIRECTV*, thus rendering final the Ohio Supreme Court's decision.

Let's talk

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