INDIANA TAX COURT

New Cingular Wireless PCS, LLC v. Indiana Department of State Revenue

New Cingular · No. 24T-TA-00004 · Decided March 31, 2026

SUMMARY

The Indiana Tax Court addresses whether cell phones qualify as exempt telecommunications equipment under Indiana Code § 6-2.5-5-13. The court holds that the statutory phrase "radio or microwave transmitting or receiving equipment" includes New Cingular's cell phones and that New Cingular was the acquiring party for purposes of the exemption. The court grants partial summary judgment to New Cingular on exemption eligibility but denies summary judgment on the requested tax refund because unresolved factual matters remain.

CASE DETAILS

COURT	Indiana Tax Court
WRITING FOR THE COURT	Justin L. McAdam
JURISDICTION	Indiana Tax Court
DECIDED	March 31, 2026
DOCKET	24T-TA-00004
DISPOSITION	other
PROCEDURAL POSTURE	New Cingular appealed the Indiana Department of State Revenue's final orders denying its claims for refunds of use tax paid on cell phones. The parties filed cross-motions for summary judgment, and the Tax Court considered whether the phones qualified for Indiana's telecommunications equipment exemption.
STANDARD OF REVIEW	Summary judgment is proper when the designated evidence shows no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. The Tax Court reviews final determinations of the Department de novo and is not bound by the evidence or issues raised at the administrative level.
PRECEDENTIAL VALUE	Published
PARTIES	New Cingular Wireless PCS, LLC v. Indiana Department of State Revenue

TOPICS

sales and use tax · tax deductions · tax refunds · statutory interpretation · summary judgment

PRACTICE AREAS

Indiana sales and use tax · state tax litigation · statutory interpretation · administrative law · summary judgment

QUESTIONS PRESENTED

1. Whether cell phones qualify as "radio or microwave transmitting or receiving equipment" exempt from sales and use tax under Indiana Code section 6-2.5-5-13.
2. Whether New Cingular, rather than its customers, was the "person acquiring the property" for purposes of applying the telecommunications equipment exemption to New Cingular's use tax liability.
3. Whether New Cingular was entitled at summary judgment to an order requiring the Department to refund the use tax paid.

HOLDINGS

1. Cell phones qualify as "radio or microwave transmitting or receiving equipment" under the plain and ordinary meaning of that statutory phrase. The exemption is not limited to central network infrastructure, equipment in the provider's custody and control, or equipment used to serve all customers.
2. New Cingular was the relevant person acquiring the property because the relevant acquisition was its purchase of the phones from suppliers, not the later acquisition of phones by its customers.
3. New Cingular was not entitled to summary judgment requiring the Department to refund the use tax paid because factual questions concerning the amount of tax due remained and the issue had not been adequately briefed.

KEY QUOTATIONS

> *"The exemption includes tools used in and adapted to facilitate the sending or receiving of radio or microwaves."* (1)

> *"Accordingly, the Court grants summary judgment to New Cingular on the question of the exemption but denies summary judgment insofar as New Cingular seeks a refund of tax paid as there are outstanding factual matters that the parties have not briefed."* (1)

> *"The phrase "including, without limitation" here mean "in addition to" and are designed to illustrate or expand the category of exempt property qualified for Section 13's exemption."* (16-17)

> *"Therefore, New Cingular's use of the cell phones to fulfill its contractual obligations to its customers is exempt from use tax under Section 13 if its acquisition of the cell phones from its suppliers would be exempt from the sales tax under Section 13."* (25-26)

FACTUAL BACKGROUND

In 2018 and 2019, New Cingular purchased Apple iPhones, Samsung Galaxy devices, and other cell phones for resale to customers. It later withdrew some phones from inventory to provide them free to customers in connection with wireless service contracts and to replace damaged phones under customer-purchased insurance policies. New Cingular paid more than $5.2 million in use tax on those phones and sought refunds under Indiana Code section 6-2.5-5-13, but the Department denied the claims.

PROCEDURAL HISTORY

New Cingular purchased cell phones tax-free for resale but later used some phones to fulfill customer-contract and insurance-replacement obligations. It paid use tax on those phones and sought refunds. The Department's Utility Refunds Division denied the claims, the Legal Division affirmed, and the Department issued final denial orders. New Cingular appealed to the Indiana Tax Court, which granted partial summary judgment to New Cingular on exemption eligibility but declined to order a refund because factual issues concerning the amount of tax remained unbriefed.

DISPOSITION

other

REMAND INSTRUCTIONS

The Court directed that a case management conference be scheduled to develop a case management plan concerning the remaining issues, including the amount of any refund.

CASES CITED

- Beradi v. Hardware Wholesalers, Inc., 625 N.E.2d 1259, 1261 (Ind. Ct. App. 1993)
- Crown Prop. Grp., LLC v. Ind. Dep’t of State Revenue, 135 N.E.3d 671, 675 (Ind. Tax Ct. 2019)
- Subaru-Isuzu Auto., Inc. v. Indiana Dep’t of State Revenue, 782 N.E.2d 1071, 1073 (Ind. Tax Ct. 2003)
- Loomis v. ACE Am. Ins., 244 N.E.3d 908, 916 (Ind. 2024)
- Ames v. Ohio Dep’t of Youth Servs., 605 U.S. 303, 313 (2025) (Thomas, J., concurring)
- Indiana Alcohol & Tobacco Comm’n v. Spirited Sales, LLC, 79 N.E.3d 371, 376 (Ind. 2017)
- Kitchell v. Franklin, 997 N.E.2d 1020, 1026 (Ind. 2013)
- Estate of Meyer, 668 N.E.2d 263, 265 (Ind. Ct. App. 1996)
- Department of Treasury v. Muessel, 32 N.E.2d 596, 598 (Ind. 1941)
- Cutchin v. Beard, 171 N.E.3d 991, 997 (Ind. 2021)
- Estabrook v. Mazak Corp., 140 N.E.3d 830, 836 (Ind. 2020)
- Johnson Cty. Farm Bureau Co-op Ass’n v. Indiana Dep’t of State Revenue, 568 N.E.2d 578, 581 (Ind. Tax Ct. 1991), aff’d, 585 N.E.2d 1336 (Ind. 1992)