



Insights: Perspectives

4 Key Takeaways | The Top 10 Sales and Tax and Income Tax Cases

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Kilpatrick's **David Hughes** recently participated in a panel titled - “**The Top 10 Sales Tax and Income Tax Cases**” - at the [Council on State Taxation \(COST\) Annual Spring Meeting](#) in New Orleans. David and his fellow thought leaders in this session discussed the business and legal impact of the top 10 cases in the past year dealing with numerous types of taxes.

David's takeaways from the presentation, include:

1. *Loper Bright Enterprises v. Raimondo*

The U.S. Supreme Court overturned the Chevron deference, establishing that courts must independently assess whether agencies acted within their statutory authority under the Administrative Procedure Act. This landmark decision eliminates the automatic presumption of correctness for agency interpretations of ambiguous statutes. The ruling is expected to impact state tax cases by prompting stricter judicial scrutiny of agency actions, especially where statutory ambiguity exists.

2. *Moore v. United States*

The Supreme Court upheld IRC § 965 transition tax as constitutional under the 16th Amendment, clarifying that taxing undistributed income through pass-through entities is permissible. The ruling emphasizes Congress's authority in taxing income, whether attributed to entities or shareholders, so long as it meets the realization requirement. Importantly, the decision could influence future debates on wealth taxes and unrealized gains, as well as GILTI and foreign income taxation frameworks.

3. *Microsoft Corp. v. California and Oregon*

Microsoft achieved significant wins in tax disputes in California and Oregon regarding the treatment of repatriated foreign earnings and dividend apportionment. In California, Microsoft successfully argued for the inclusion of 100% of dividends in the sales factor denominator, but legislative changes later nullified the ruling. In Oregon, Microsoft won partial refunds tied to the sales factor adjustment, reinforcing the importance of aligning apportionment formulas with primary business activity. These cases highlight the complexity and ongoing challenges in corporate income tax apportionment of foreign source income.

4. *CarMax v. South Carolina Department of Revenue*

The South Carolina Administrative Law Court required CarMax to file combined unitary tax returns, citing distortions created by separate company reporting. The ruling underscored the importance of addressing

intercompany transfer pricing discrepancies to ensure accurate representation of business activity within the state. This case illustrates the growing reliance on combined reporting to mitigate alleged income shifting between affiliates.

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