

This Week in State Tax (TWIST)

February 17, 2025



Maryland: Tax Court Says Outdoor Advertising Tax Applies to Billboard Owner

The Maryland Tax Court recently upheld a decision by the Department of Finance of Baltimore City (City) to deny a taxpayer's Outdoor Advertising Tax refund claims. As enacted by the City Council, the tax is imposed on "advertising hosts," defined as a "person who: (1) owns or controls a billboard, posterboard, or other sign; and (2) charges for its use as an outdoor advertising display." The taxpayer owned and controlled roughly 700 displays during the years at issue (2019-2021). The taxpayer filed original returns paying the tax due and subsequently filed a claim for refund. The claim was denied by the City, and the taxpayer appealed to the state tax court.

The taxpayer's primary argument was that the display of advertising on these billboards by customers should not be considered "use" of the billboards because the customers did not own, maintain, or control the billboards. Consequently, the taxpayer argued that it did not qualify as an "advertising host" and was not obligated to pay the tax. The court found the argument unpersuasive. The tax is imposed on the privilege of exhibiting advertising displays in the city. The court clarified that the term "use" in the definition of "advertising host" refers to use of the billboard for outdoor advertising, not the ownership or control by advertisers. In a brief, the taxpayer attempted to liken the definition of "use" to that in the Maryland retail sales tax. The court rejected this as relating to a different tax scheme that was not enacted by the Baltimore City Council. The court noted that the taxpayer owned or controlled the billboards and charged fees for the use of billboards as advertising displays, which are the two defining characteristics of an "advertising host" under the tax. The court concluded that the taxpayer was indeed an "advertising host" and was obligated to remit the tax. Interestingly, the court also stated that the taxpayer was estopped from claiming it was not an advertising host as it had agreed that it was a host in earlier litigation so it could pursue a refund. For more information on [Clear Channel Outdoor, LLC v. Director, Department of Finance of Baltimore City](#), contact [Jeremy Jester](#).

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