



# This Week in State Tax (TWIST)

April 13, 2026



## Indiana: Tax Court holds telecommunications company not liable for use tax on handsets

The Indiana Tax Court recently addressed whether certain cell phone handsets qualify for Indiana's telecommunications equipment sales and use tax exemption. The taxpayer, a wireless provider, purchased the phones using resale exemption certificates. It then withdrew some devices from inventory to provide "free" or discounted phones conditioned on entering into service agreements and to furnish replacement phones under insurance or protection plans. For 2018 and 2019, the taxpayer self-assessed and paid use tax on the inventory withdrawals but later sought refunds, citing the exemption for purchases of certain telecommunications equipment under certain conditions. The Indiana Department of State Revenue denied the refunds, and the taxpayer appealed.

Indiana law exempts a specified list of telecommunications equipment, including "radio or microwave transmitting or receiving equipment" from sales and use tax when acquired by a person who sells telecommunication service at retail. The central dispute concerned whether the cell phone handsets are "radio or microwave transmitting or receiving equipment" within the meaning of the statute and whether the taxpayer was the qualifying "person acquiring the property." The Department argued that the statute as a whole was intended to exempt only network infrastructure such as towers and switches, not customer devices. It further argued that customers, not the taxpayer, were the true acquirers and users of the phones in question here. The taxpayer countered that cell phones plainly transmit and receive radio or microwave signals and are essential endpoints in the telecommunications system. It further asserted that the relevant taxable acquisition is its own purchase of phones from suppliers for use in providing telecommunications services, regardless of whether phones are later transferred to customers via promotions or insurance obligations.

The Tax Court agreed with the taxpayer. Looking to the plain and ordinary meaning of the statutory language, the court held that "radio or microwave transmitting or receiving equipment" encompasses cell phones and that there is no textual basis to confine the exemption to infrastructure under the provider's direct control. The court also concluded that the taxpayer qualifies as the "person acquiring the property" for purposes of the exemption because, in this instance, the taxpayer was the purchaser in the transactions at issue (i.e., the purchaser of the handsets on which a use tax refund is now sought). The onward transfer of the handset to its customer did not negate the availability of the exemption to the taxpayer.

Accordingly, the court granted partial summary judgment in favor of the taxpayer on the legal issue, holding that the phones withdrawn from resale inventory and used in promotional offers and insurance replacements are exempt from Indiana use tax. However, the court declined to order a refund as it found that additional factual and

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computational issues remained regarding which specific phones and transactions qualified for the exemption. For questions regarding [New Cingular Wireless PCS, LLC v. Department Of State Revenue](#) please contact [Audra Mitchell](#) or [Dave Perry](#).

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