



This Week in State Tax (TWIST)

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Arkansas: State Supreme Court holds that rental of pallets for shipping product not eligible for sale for resale treatment

The Arkansas Supreme Court rejected a refund claim for sales tax paid on the rental of pallets used in delivering a taxpayer's products. The taxpayer, a meat products producer, rented reusable wooden pallets that it used when shipping its product (in this case chicken) to distributors and others in the supply chain. After delivery, the pallets were returned to the pallet supplier and placed back in its rental inventory. The taxpayer paid Arkansas sales tax to the supplier, which was subsequently remitted to the state. The taxpayer later sought sales tax refunds, arguing that the pallet rentals were tax exempt sales for resale. The Department of Finance and Administration denied the refund, and a circuit court upheld that denial. The taxpayer appealed to the state high court.

The court framed the issue as resolving what the taxpayer sold – “is chicken just chicken (as the circuit court concluded)? Or is it chicken on a pallet (as [the taxpayer] argues)?” Under Arkansas law, “proceeds derived from sales for resale to persons regularly engaged in the business of reselling the articles purchased” are exempt from the sales tax. An item “sold for use in manufacturing, printing, compounding, processing, assembling, or preparing for sale” only qualifies for this exemption if the item “becomes a recognizable integral part of the manufactured, printed, compounded, processed, assembled, or prepared products.” “[G]oods, wares, merchandise, and property” that are not made part of the product are treated as goods consumed by the purchaser rather than purchased for resale. Applying this provision, the court contrasted its previous rulings on Coca-Cola bottles (which were deemed to be an integral part of the product being sold) with boxes in which the bottles were shipped (which were not). Here, the court held that the pallets were, like the shipping boxes, merely a convenient way to market and deliver the product, not an integral part of the product itself. Accordingly, the Department's denial of the refund was upheld. Contact [Sadie Cuevas](#) with questions about [Tyson Chicken, Inc. v. Dep't of Fin. and Admin.](#)

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