



Iowa General Assembly

2013 Legal Updates

Legislative Services Agency – Legal Services Division

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Purpose. *Legal update briefings are prepared by the nonpartisan Legal Services Division of the Legislative Services Agency. A legal update briefing is intended to inform legislators, legislative staff, and other persons interested in legislative matters of recent court decisions, Attorney General Opinions, regulatory actions, federal actions, and other occurrences of a legal nature that may be pertinent to the General Assembly's consideration of a topic. Although a briefing may identify issues for consideration by the General Assembly, a briefing should not be interpreted as advocating any particular course of action.*

TELECOMMUNICATIONS COMPANY PROPERTY TAXATION

Filed by the Iowa Supreme Court

April 12, 2013

Qwest Corporation v. Iowa State Board of Tax Review

No. 11-1543, 829 N.W.2d 550 (2013)

http://www.iowacourts.gov/Supreme_Court/Recent_Opinions/20130412/11-1543.pdf

Background and Procedure. The federal Telecommunications Act of 1996 and state legislation in Iowa was enacted to enhance the availability of telecommunications services and encourage competition following a period of years where the monopoly conditions of the telecommunications industry were deconstructed. As part of House File 518, enacted by the General Assembly in 1995, telecommunications companies that are classified as competitive long distance telephone companies (CLDTCs) are no longer subject to property tax on switches, computers, equipment, and other personal property that was first assessed for taxation in Iowa on or after January 1, 1996. However, such exemption was not extended to incumbent local exchange carriers (ILECs), including Qwest Corporation (Qwest). In addition, wireless telecommunications companies are not subject to tax on such personal property because they are not considered to be a telephone company “operating a line in this state,” within the meaning of Iowa Code § 433.1. Wireless telecommunications companies are instead assessed locally for the value of their cell towers and other real property.

Qwest responded to its 2006 assessment by filing a protest with the State Board of Tax Review. An agreement between the parties reduced the total assessed value, but Qwest preserved its constitutional arguments. The case was transferred to the Department of Inspections and Appeals for a contested case hearing. The administrative law judge's decision that the differential tax system was constitutional was affirmed by the Iowa State Board of Tax Review. On appeal to district court, however, the court found that the tax scheme allowing a tax exemption for the personal property of CLDTCs and wireless providers but not for the substantially similar switching and central office equipment property of Qwest violates the Iowa Constitution's Equal Protection Clause, as applied to Qwest.

Issue. Qwest asserts that disparate tax treatment of the personal property of ILECs, as compared to the tax treatment of the personal property of CLDTCs and wireless providers, violates the Equal Protection Clause of the Iowa Constitution.

Arguments and Analysis. Economic legislation, such as the tax provisions at issue in this case, are reviewed under the rational basis test. To survive constitutional scrutiny, the statute need only be rationally related to a legitimate state interest and most tax laws are generally upheld without much difficulty.

The Iowa Supreme Court (Court), without extensive analysis, made the assumption that the groups of telephone companies at issue in this case are “similarly situated” and proceeded to its rational basis analysis. The Court agreed with the State Board of Tax Review's conclusion that a rational basis exists to exempt the post-January 1, 1995, property of CLDTCs because it was a reasonable way to encourage the deployment of new infrastructure that would foster competitive wireline networks. The Court also rejected the district court's determination that even if a rational purpose existed at the time the exemption was enacted in 1995, such purpose is no longer rational because of the change in the market dominance of Qwest in the overall telecommunications industry in Iowa. The Court concluded that the wireless telecommunications and wireline telecommunications were not substitutes and acknowledged a continued dominance by Qwest in the wireline telecommunications market. Following a finding in the record that the ILECs retain some vestiges of their former monopoly status, the Court concluded that the continued taxing of ILECs personal property is an appropriate way to address that dominance. In its analysis, the Court distinguished the Court's decision in *Racing Association of Central Iowa v. Fitzgerald*, 675 N.W.2d 1 (Iowa 2004), which was relied on heavily by Qwest, and also noted similar results in challenges to similar telecommunications property tax provisions in other states.

Holding. The Court held that the imposition of a tax on the Iowa-based personal property of ILECs, but not on that of CLDTCs, does not violate the equal protection clause of the Iowa Constitution, reversed the decision of the district court, and remanded the case for further proceedings.

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