

Bond Case Briefs

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Watson v. City of Seattle

Supreme Court of Washington - August 10, 2017 - P.3d - 2017 WL 3428951

Various organizations brought action against city, alleging that an ordinance that purported to tax firearms and ammunition sold within city limits was a regulation preempted by state law.

The Superior Court granted city's motion for summary judgment. Organizations appealed. The Court of Appeals certified a question, and the Supreme Court accepted direct review.

The Supreme Court of Washington held that:

- Ordinance was a tax, rather than a regulatory fee, and thus ordinance was not facially preempted;
- Tax was not limited by statute regulating business and occupation tax;
- State did not impliedly preempt field of firearm and ammunition taxation; and
- Ordinance did not conflict with statute preempting local regulation of firearms.

City's ordinance purporting to tax firearms and ammunition sold within city limits was tax, rather than regulatory fee, and therefore ordinance was not facially preempted by state firearm statute. Even though revenue was segregated, purpose of ordinance was to raise general revenue to provide broad-based public benefits, including public health research and gun safety programs, funds were allocated to nonregulatory purpose, and there was no direct relationship between expected amount of revenue generated and economic burden of gun violence.

City's flat tax on firearms and ammunition sold within city limits was not limited by statute regulating business and occupation tax. Even though city's tax and business and occupation tax were both excise taxes, city's tax was calculated on per unit basis, rather than measured as percentage of retailer's income, and city's tax did not affect gun retailers' business and occupation tax rate, which was capped by statute.

State did not impliedly preempt field of firearm and ammunition taxation by expressly preempting field of firearms regulation; preemption statute made no mention of taxation, purpose of statute was to advance uniformity in firearms regulation, which was achievable without restricting municipal tax authority, and legislature was typically explicit when preempting taxation.

Ordinance taxing firearms and ammunition sold within city limits did not conflict with state statute preempting local regulation of firearms, which allowed cities to "enact only those laws and ordinances relating to firearms that are specifically authorized by state law," and thus conflict preemption did not apply. Argument that taxation of firearms was required to be specifically authorized by state statute would have exempted firearms sales from all forms of taxation, including basic sales tax, and, in context, statute only required specific authorization for regulatory laws and ordinances.

