

Bond Case Briefs

Municipal Finance Law Since 1971

TAX - COLORADO

City of Golden v. Sodexo America, LLC

Supreme Court of Colorado - May 20, 2019 - P.3d - 2019 WL 2167903 - 2019 CO 38

Taxpayer, a food service provider for a college, sought review of municipal finance department's issuance of sales and use tax assessment.

The District Court granted summary judgment to municipality. Taxpayer appealed. The Court of Appeals reversed and remanded. Municipality petitioned for certiorari review, which was granted.

The Supreme Court held that:

- Sale of meals from taxpayer to college students occurred when the students paid college for their meal plans, rather than when students swiped meal plan cards and physically obtained the meals, and
- College's payment of taxpayer was a wholesale sales transaction and thus exempt from sales tax under municipal code; overruling *City of Golden v. Aramark Educational Services, LLC*, 310 P.3d 262.

Sale of meals from food service provider to college students, as would constitute the taxable event in determining whether sales tax applied under municipal code, occurred when the students paid college for their meal plans as part of students' residence hall contracts, rather than when students swiped meal plan cards and physically obtained the meals; students did not provide any consideration to provider for the meals but rather promised to pay college for the meals through residence hall contracts' meal plans, and swipe of meal plan card functioned as nothing more than accounting mechanism that allowed college to track number of meals that a student had used.

College's payment of food service provider, which purchased, prepared, and served food to students, under monthly invoice was a wholesale sales transaction and thus exempt from sales tax under municipal code, where it was college that sold the prepared food to students pursuant to students' residence hall contracts and their incorporated meal plans, and college sold food to students at a higher price than what college paid to provider; overruling *City of Golden v. Aramark Educational Services, LLC*, 310 P.3d 262.