

# **Bond Case Briefs**

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## **TAX - MARYLAND**

### **Matter of Comptroller of Maryland**

**Appellate Court of Maryland - November 22, 2024 - A.3d - 2024 WL 4866525**

Public utility petitioned for review of Tax Court's denial of claim for refund of sales and use taxes.

The Circuit Court affirmed. The Court of Special Appeals reversed and remanded with instructions to remand to Tax Court.

The Tax Court rejected Comptroller's argument that refund claim was time barred and granted refund. Comptroller sought review. The Circuit Court reversed on issue of timeliness, reduced refund award, and otherwise affirmed. Utility appealed, and Comptroller filed cross-appeal.

The Appellate Court held that:

- 30-day time limit for submitting refund request of sales and use tax after mailing of notice of assessment was exception to four-year limitations period for refund claims;
- Expert opinions supported Tax Court's decision that utility was entitled to sales and use tax exemption; and
- Utility was entitled to interest on refund.

Thirty-day time limit for submitting sales and use tax refund request after mailing of notice of assessment was exception to four-year limitations period for refund claims, and, thus, public utility timely filed refund request, even though it was filed one week before mailing of assessment notice; utility attached request to redetermination petition, filed within the 30-day period.

Expert opinions that public utility's conductor equipment, substation equipment, and transformer equipment were used predominantly for stepping up voltage when electricity entered utility's transmission and distribution system and for reducing voltage for use by customers supported Tax Court's decision that utility was entitled to sales and use tax exemption; experts' concession that the equipment served a dual purpose and that delivery of electricity to the customers was a primary purpose of the equipment did not detract from experts' opinions that stepping up and stepping down of the voltage was necessary and integral to carry out that purpose and would, in fact, be impossible without it.

Public utility's overpayment of sales and use tax for conductor equipment, substation equipment, and transformer equipment for stepping up voltage when electricity entered utility's transmission and distribution system and for reducing voltage for use by customers was based upon a policy of state and attributable to state regardless of whether utility's accounting system irregularities also contributed to the overpayment, and, thus, utility was entitled to interest on refund.