

Bond Case Briefs

Municipal Finance Law Since 1971

TAX - MONTANA

Westmoreland Resources Inc. v. Department of Revenue

Supreme Court of Montana - August 5, 2014 - P.3d - 2014 MT 212

Coal producer and Department of Revenue filed joint petition for interlocutory adjudication of substantive question of law, requesting determination as to whether deduction taken by producer for coal severance and gross proceeds taxes paid to Indian tribe, as owner of coal, to reduce amount owning under Resource Indemnity Trust and Ground Water Assessment Tax (RITT) was proper. The District Court held in favor of Department. Producer appealed.

The Supreme Court of Montana held that taxes that producer paid to tribe were not taxes paid on production subject to deduction from contract sales price.

Coal severance and gross proceeds taxes that coal producer paid to Indian tribe, as owner of coal mined by producer, were not “taxes paid on production,” as used in statute governing coal severance tax, such that producer was precluded from deducting taxes paid to tribe from contract sales price when calculating amount owning under Resource Indemnity Trust and Ground Water Assessment Tax (RITT). Taxes paid on production were those taxes paid to specified group of governing authorities, namely, federal, state, and local governments, which did not include tribal governments. If so intended, legislature could have included tribal governments when defining specified governmental authorities, and disallowing state tax deduction did not undermine tribe’s sovereign authority to govern itself.