

# **Bond Case Briefs**

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## **TAX - WASHINGTON**

### **City of Snoqualmie v. King County Executive Dow Constantine**

**Supreme Court of Washington, En Banc - December 22, 2016 - P.3d - 2016 WL 7421401**

City brought action challenging the constitutionality of statutory provision, which required Indian tribes taking advantage of property tax exemption for tribal property to make payment in lieu of leasehold excise taxes if property was not leased.

The Superior Court granted partial summary judgment in favor of the city. Department of Revenue appealed to Supreme Court, and Supreme Court retained the case for review.

The Supreme Court of Washington held that:

- City had direct standing to challenge constitutionality of statutory provision under more liberal standing requirements for cases of public importance, and
- Payment in lieu of leasehold excise taxes was not a “tax,” and thus, payment was not subject to State Constitution’s tax requirements.

City had direct standing to challenge constitutionality of statutory provision, which required Indian tribes taking advantage of property tax exemption for tribal property to make payment in lieu of leasehold excise taxes if property was not leased, under more liberal standing requirements for cases of public importance. Issue of whether payment in lieu of taxes was a tax would impact Indian tribes throughout the state, and several other tribes would be directly affected by invalidation of exemption and accompanying payment in lieu of taxes.

City had representative standing on behalf of its residents to challenge constitutionality of statutory provision, which required Indian tribes taking advantage of property tax exemption for tribal property to make payment in lieu of leasehold excise taxes if property was not leased. Residents had been subjected to tax shift, payment in lieu of taxes could not compensate for the total loss, and residents suffered injury from the exemption and payment in lieu of taxes.

Payment to county by Indian tribes, which took advantage of property tax exemption for tribal property, in lieu of leasehold excise taxes was not a “tax,” and thus, payment was not subject to State Constitution’s tax requirements. Purpose of payment was to offset the burden created by property tax exemption in order to compensate county for services that tribal exempt land required, payment was essentially reimbursement or prospective payment for municipal services rendered, and payment was made because of municipal services the land received, as evidenced by negotiation process between tribe and county.