

Bond Case Briefs

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Colorado Department of Revenue v. Creager Mercantile Co., Inc.

Supreme Court of Colorado - May 15, 2017 - P.3d - 2017 WL 2106241 - 2017 CO 41

Corporate taxpayer that distributed tobacco and other products to convenience stores sought judicial review of the decision of the Department of Revenue to impose a tobacco products tax on wrappers consisting of pulverized, homogenized tobacco leaves that contained 30% to 48% tobacco.

The District Court affirmed. Taxpayer appealed. The Court of Appeals reversed and remanded. Department petitioned for a writ of certiorari, which was granted.

The Supreme Court of Colorado held that wrappers were a “kind” or “form” of tobacco and were “prepared in such manner as to be suitable ... for smoking,” and thus wrappers were a taxable “tobacco product.”

Wrappers consisting of pulverized, homogenized tobacco leaves that contained 30% to 48% tobacco were a “kind” or “form” of tobacco and were “prepared in such manner as to be suitable ... for smoking,” and thus wrappers were “tobacco products” that were taxable under statute defining “tobacco products” as “other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or for smoking in a pipe or otherwise”; wrappers were designed and intended to be filled with tobacco, marijuana, or other smoking material and smoked, wrappers were consumed as they were smoked, and each inhalation from a wrapper burned and delivered additional tobacco in the wrap itself to the user.