

# **Bond Case Briefs**

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## **TAX - PENNSYLVANIA**

### **Williams v. City of Philadelphia**

**Supreme Court of Pennsylvania - July 18, 2018 - A.3d - 2018 WL 3455401**

Objectors, including consumers, retailers, distributors, producers, and trade associations, brought action challenging city's "beverage tax" on certain sweetened beverages, seeking declaratory and injunctive relief, including declaration that tax was expressly preempted by the Sterling Act, governing city's imposition of local taxes.

The Court of Common Pleas sustained the city's preliminary objections. Objectors appealed. The Commonwealth Court affirmed.

On limited appeal by allowance, the Supreme Court held that Commonwealth's sales and use tax and city's beverage tax had distinct legal incidences, and thus city's tax was not preempted by Sterling Act.

Commonwealth sales and use tax upon soft drinks and city's beverage tax on certain sweetened beverages had distinct legal incidences, and thus city's tax was not preempted by Sterling Act, which granted city broad taxing power unless Commonwealth imposed tax having same legal incidence relevant to same subject or transaction, though objectors asserted both taxes reached retail sales; sales and use tax was imposed on retail sales, was measured by purchase price, and fell directly upon consumers, beverage tax applied to distributor/dealer level transactions for purposes of retail sale, independent of whether retail sale occurred, measure was volume of fluid ounces, and payer was distributor or dealer, but never consumer, and retail sales nexus did not convert distributor/dealer level tax into retail sales tax.