
TAX - MINNESOTA

Phone Recovery Services, LLC v. Qwest Corporation

Supreme Court of Minnesota - October 31, 2018 - N.W.2d - 2018 WL 5624225

Limited liability corporation (LLC) brought qui tam action against telecommunications carriers under the Minnesota False Claims Act (MFCA).

Attorney General declined to intervene. Carriers filed a motion to dismiss, which the District Court granted. LLC appealed. The Court of Appeals affirmed. The Supreme Court granted review.

The Supreme Court of Minnesota held that:

- Plain meaning of "[s]tatutes relating to taxation" referred to any portions of state statutes that pertained to taxation;
- Surcharges collected by telecommunications carriers were taxes; and
- Use of the definition of tax from statute defining words and phrases in legislation did not convert all fees to taxes.

Plain meaning of the phrase "[s]tatutes relating to taxation[,]" in section of the Minnesota False Claims Act (MFCA) that excluded qui tam actions regarding such statutes, referred to any portions of state statutes that related to, bore upon, or pertained to levying, assessing, or imposing a tax; the phrase "relating to taxation" and the MFCA itself were unambiguous, the exclusion was not restricted to statutes enacted under the State's taxing power in that the plain language did not invoke this power, and the MFCA's reference to "portions" of statutes relating to taxation did not suggest legislative intent to focus only on statutes comprising Minnesota's counterpart to the Internal Revenue Code.

Surcharges for the funding of state 911 emergency system and telephone assistance programs were taxes, and thus provision of the Minnesota False Claims Act (MFCA) which excluded qui tam actions regarding statutes pertaining to taxation applied to action against telecommunications carriers based on failure to pay these surcharges; the surcharge amounts were established by the Commissioner of Public Safety and the Public Utilities Commission, surcharge payments collected by carriers were deposited in the State's special revenue fund and paid to the Commissioner, and the amounts owed for these surcharges were not tied to a consumer's level of use of the 911 system or telephone assistance programs.

Use of the definition of "tax" from state statute defining words and phrases in legislation did not convert all fees to taxes regardless of Legislature's intent, and thus the definition could be used to characterize surcharges for the funding of state 911 emergency system and telephone assistance programs as taxes, which the Minnesota Fair Claims Act (MFCA) exempted from qui tam actions; the definitions statute applied absent clear intent to the contrary, the plain and unambiguous language of the MFCA tax bar provision could not be construed to encompass only a restricted subset of statutes or suggest intent to have such a restriction, and the definitions statute did not generally define all fees and charges to be taxes.

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