



This Week in State Tax (TWIST)

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DISTRICT OF COLUMBIA



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District of Columbia: Hospital Not Entitled to Refund When it Did Not Provide a Resale Certificate at Time of Purchase

The District of Columbia Court of Appeals recently concluded that a hospital was not entitled to a refund of sales taxes paid on purchases of meals that were later resold to others. The hospital timely filed a claim for a refund of the sales tax, but the Office of Tax and Revenue denied the refund on the basis that the hospital had not provided the seller with a valid resale certificate when it purchased the meals. After a trial court affirmed the denial of the refund claim, the taxpayer appealed. The appeals court observed that, in its view, the matter was one of statutory interpretation. The relevant statute specified a clear procedure for purchasers that wished to avoid sales tax on the grounds that the purchaser intended to resell the purchased items. Namely, at the time of the purchase, the purchaser must provide the vendor with a certificate stating that the purchased items are intended for resale. The statute also set forth a clear consequence for failing to follow the procedure—the purchases at issue “shall be deemed taxable.”

The hospital made eleven arguments in support of its position that a purchaser that fails to provide the required certificate can later obtain a refund by proving that the items were intended to be resold and in fact were resold. However, the court rejected each of the hospital’s arguments, many of which were based on language in other statutes that it asserted supported its position. The taxpayer also argued that not allowing a refund in this instance resulted in double taxation because the hospital paid sales taxes on its meal purchases and later collected sales taxes when it resold the meals. In the court’s view, the fact that the hospital paid taxes it was not required to pay was a consequence of its failure to follow the required procedures. Another argument advanced by the hospital was that it was absurd that it should pay taxes on transactions that were, in reality, exempt. The court determined that it did not “view it as at all absurd for the legislature to determine that any claim of exemption from sales tax must be supported by certificates presented to the vendor at the time of purchase. Requiring a contemporaneous resale certificate appears to us to be a reasonable approach to the problem potentially presented by trying to verify the purpose of numerous transactions entirely after the fact.” Please contact [Jeremy Jester](#) with questions on *District Hospital Partners, LP v. District of Columbia*.



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