

Larry's Tax Law

## **Whether Public Law 86-272 is Alive and Well May Be Debatable – *Santa Fe Natural Tobacco Co. v. Department of Revenue, State of Oregon***

By Larry Brant on 9.15.22 | Posted in Legislation, State and Local Tax, Tax Laws

On August 23, 2022, the Regular Division of the Oregon Tax Court issued its opinion in *Santa Fe Natural Tobacco Co. v. Department of Revenue, State of Oregon*. The court determined that the taxpayer in that case is subject to the corporate excise tax.

The taxpayer, Santa Fe Natural Tobacco Co., required that its wholesale customers located in Oregon accept and process returned goods. In addition, the taxpayer's in-state sales representatives, who did not maintain inventory, routinely confirmed and processed purchase orders between Oregon retailers and wholesalers.

After a thorough analysis of the facts and the applicable law, the tax court ultimately concluded that:

**“[the taxpayer] was not immune from Oregon corporate excise tax under [Public Law 86-272].”**

*Santa Fe Natural Tobacco Co.* exemplifies a possible erosion of the protections afforded by Public Law 86-272. The [decision](#) should be especially important to any out-of-state taxpayers that believe that their in-state activities will not subject them to state and local income taxes.

Andrea Muse, Senior Legal Reporter for Tax Analysts, interviewed me about the ruling. Her [article](#) in *Tax Notes State* provides a wonderful overview of the case and the ruling. It is a good read.

It is possible that Santa Fe Natural Tobacco Co. will appeal the tax court's decision to the Oregon Supreme Court. In that event, the issue may not yet be settled. It will be prudent for taxpayers and tax advisors to keep a keen eye out for any future developments. Stay tuned!

**Tags:** Department of Revenue, excise tax, Oregon, Public Law 86-272, Santa Fe Natural Tobacco Co., Tax Court, Taxpayer