

Other/Miscellaneous:

Indiana: Trial Court Asked to Review Streaming Companies' Motion to Dismiss Local Franchise Fee Case

Case No. 22A-PL-1630, Ind. Ct. App. (6/13/23). In a suit filed by various Indiana municipalities against several streaming entertainment companies claiming that they owed local franchise fees imposed on certain video service providers under Indiana law, the Indiana Court of Appeals (Court) held that due to recently enacted retroactive law changes to Indiana's Video Service Franchises Act ("VSF Act"), the trial court's 2022 denial of the companies' motion to dismiss [see Cause No. 49D01-2008-PL-026436, Ind. Commercial Ct., Marion County (1/18/22), and *State Tax Matters*, Issue 2022-03, for details on the 2022 trial court ruling] should be vacated. Under the new law (H.B. 1454 (2023)), retroactive to July 1, 2006, "video programming accessed via a service that enables users to access content, information, electronic mail, or other services offered over the Internet, including digital audiovisual works" are expressly excluded from the definition of "video service." Accordingly, the Court reasoned that "given that a dispute centering on whether the streaming services provide 'video service' within the meaning of the VSF Act is at the core of this case, and that the trial court's analysis preceded the passage of this new amendment, we remand the case with instructions to vacate the denials of the streaming services' motions to dismiss." Please contact us with any questions.

URL:
https://public.courts.in.gov/Decisions/api/Document/Opinion?id=VVEXUsolqfQDqKC6t_GbmsGd2Dfcl7sBnBf2A8oWPDYcNTZUyo2pMB3kJREUdiw90

URL: <https://public.courts.in.gov/mycase#/vw/Search>

URL: https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2022/STM/220121_4.html

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