



This Week in State Tax (TWIST)

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Wyoming: State Supreme Court Addresses Taxation of Repair Services

The Supreme Court of Wyoming recently held that certain roadside services provided by Big Al's Towing and Recovery were not subject to state excise tax (sales tax). Under Wyoming law, excise tax is levied on the sales price for services performed for the "repair, alteration, or improvement of tangible personal property." The issue before the court was whether jumping-starting, unlocking a vehicle, or replacing a flat tire with a vehicle's spare tire sufficiently altered or improved the customer's vehicle so that these services were subject to tax. No one suggested that the services at issue constituted "repairs." Although the terms "altered" or "improved" were not defined by statute, the Wyoming Supreme Court determined the statute was unambiguous, and so the undefined terms were to be interpreted in a manner consistent with their common dictionary definitions.

The DOR's stance that was any degree of change, even if small or temporary, was sufficient to bring the activity within the language of the statute. The court rejected this notion and held that alteration, commonly defined as the act or process of making something different without changing it into something else, was not intended to include temporary or *de minimis* changes. Similarly, court rejected the Department's contention that an improvement did not necessarily need to accompany an increase in value. In the court's view, to improve a vehicle, the service must increase its value. Applying these parameters, the court concluded that the services at issue did not alter or improve a vehicle. Jumpstarting a battery from an outside source neither increased the vehicle's value nor changed the vehicle's "nature, form, or quality" from how it was prior to service. Also, without any additional services, jumping a car battery so that the vehicle started was likely a temporary change. Similarly, disengaging the locking mechanism neither increased the value of the vehicle nor changed its "nature, form, or quality." If this was the case, the vehicle would increase in value or change its nature every time the owner unlocked it. Replacing a flat tire with the vehicle's spare also did not improve or alter the vehicle. The court found it important that Big Al's did not attempt to repair the flat. In other words, before the services were performed, the vehicle had one flat and four functioning tires. The same was true after Big Al's replaced a tire with a spare; the only difference was that the flat tire and spare tire changed locations on the same vehicle. As a result, the court concluded that the roadside services at issue did not alter or improve vehicles in a manner that subjected the service provider to excise tax. Please contact [Steve Metz](#) with questions on *Big Al's Towing and Recovery v. State, Department of Revenue*.



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