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U.S. Supreme Court: Certiorari denied in state tax cases, retroactive tax changes

The U.S. Supreme Court today issued orders denying petitions for certiorari in several cases challenging the constitutionality of retroactive state tax law changes.

In one of the denied cases, *Dot Foods, Inc. v. Dep't of Revenue of the State of Washington*, the taxpayer argued that the Washington State Supreme Court erred when it held that a four-year period of retroactivity comported with the Due Process Clause. The other cases involved several different taxpayers, and generally concerned whether the Michigan legislature's retroactive repeal of the Multistate Tax Compact back to 2008 (which effectively disallowed the Compact election) also violated the taxpayers' due process. The Michigan taxpayers also requested that the high court review the Michigan appeals court's holding in multiple cases that the Compact was not a binding contract, and that its retroactive repeal did not violate the Contract Clause of the U.S. Constitution.

Read the [orders](#) [PDF 82 KB]

KPMG observation

The last time the Supreme Court addressed retroactivity was in 1994 in *United States v. Carlton*. In *Carlton*, the Court held that the retroactive period must be "rationally related" to a legitimate legislative purpose for a law increasing a tax liability to pass muster under the Due Process Clause. While the Court did not grant certiorari in any of these cases, this was not a surprising outcome because the Court very rarely agrees to hear state tax cases. Furthermore, the issue of retroactive state tax increases has been before the Court before. Most recently, in 2015, the Court denied cert in *In re Estate of Hambleton*, another Washington case challenging an eight-year period of retroactivity.

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