

ALERT

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TAX

News Concerning Recent Tax Issues



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LOCAL HEAD TAX PROHIBITED BY FEDERAL ACT

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The federal Third Circuit Court of Appeals held that the U.S. Department of Transportation correctly determined that a head tax imposed by Tinicum Township was prohibited by the Anti-Head Tax Act, 48 U.S.C. §40116. *Township of Tinicum v. United States*, No. 08-1830 (3rd Cir. Sept. 14, 2009). The Anti-Head Tax Act (AHTA) provides that a locality may not impose a tax with respect to a commercial aircraft flight unless the flight takes off or lands within the locality. Another section of the Act expressly prohibits certain specific types of taxes, including a head tax. The court held that

the language regarding take off or flight was not a savings clause that saved a head tax from the express prohibition. Rather, the clause established a required condition before any tax could be permitted. The court noted that a prior version of the statute, before codification, would clearly have prohibited any head tax and Congress expressly stated that the codification was not intended to change prior law. The language provided additional support for the decision.

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