

Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

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**ARIZONA DEPARTMENT OF REVENUE v. BLAZE
CONSTRUCTION CO., INC.**

CERTIORARI TO THE COURT OF APPEALS OF ARIZONA

No. 97–1536. Argued December 8, 1998– Decided March 2, 1999

Over several years, the Bureau of Indian Affairs contracted with respondent Blaze Construction Company to build, repair, and improve roads on several Indian reservations located in Arizona. At the end of the contracting period, petitioner Arizona Department of Revenue (Department) issued a tax deficiency assessment against Blaze for its failure to pay Arizona's transaction privilege tax on the proceeds from its contracts with the Bureau; that tax is levied on the gross receipts of companies doing business in the State. Blaze protested the assessment and prevailed in administrative proceedings, but the Arizona Tax Court granted the Department summary judgment. The Arizona Court of Appeals reversed, rejecting the Department's argument that *United States v. New Mexico*, 455 U. S. 720, controlled, and holding that federal law pre-empted the tax's application to Blaze.

Held: A State generally may impose a nondiscriminatory tax upon a private company's proceeds from contracts with the Federal Government, regardless of whether the federal contractor renders its services on an Indian reservation. In *New Mexico*, *supra*, the Court announced a clear rule that tax immunity is appropriate only when the levy falls on the United States itself, or on its agency or closely connected instrumentality. *Id.*, at 733. To expand that immunity beyond these narrow constitutional limits, Congress must *expressly* so provide. *Id.*, at 737. Thus, absent a constitutional immunity or congressional exemption, federal law does not shield Blaze from Arizona's transaction privilege tax. The incidence of the tax falls on Blaze, not the Government; nor has Congress exempted these contracts from taxation. Nevertheless, the Arizona Court of Appeals employed a balancing test weighing state, federal, and tribal interests, and held that a congressional intent to pre-empt the tax could

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be inferred from federal laws regulating Indian welfare. In cases involving taxation of on-reservation activity, this Court has undertaken such a particularized examination where the tax's legal incidence fell on a nontribal entity engaged in a transaction with tribes or tribal members. See, e.g., *Cotton Petroleum Corp. v. New Mexico*, 490 U. S. 163. But the Court has never employed this balancing test where a State seeks to tax a transaction between the Government and a non-Indian private contractor, and declines to do so now. The need to avoid litigation and to ensure efficient tax administration counsels in favor of a bright-line standard for taxing federal contracts, regardless of whether the contracted-for activity takes place on Indian reservations. Moreover, the political process is uniquely adapted to accommodating the interests implicated by state taxation of federal contractors. *New Mexico, supra*, at 738. The decision whether to exempt Blaze from the tax rests with Arizona and Congress, not this Court. Pp. 2–6.

190 Ariz. 262, 947 P. 2d 836, reversed and remanded.

THOMAS, J., delivered the opinion for a unanimous Court.