SUPREME COURT OF THE UNITED STATES

No. 04–631

JOAN WAGNON, SECRETARY, KANSAS DEPARTMENT OF REVENUE, PETITIONER *v.* PRAIRIE BAND POTAWATOMI NATION

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

[December 6, 2005]

JUSTICE THOMAS delivered the opinion of the Court.

The State of Kansas imposes a tax on the receipt of motor fuel by fuel distributors within its boundaries. Kansas applies that tax to motor fuel received by non-Indian fuel distributors who subsequently deliver that fuel to a gas station owned by, and located on, the Reservation of the Prairie Band Potawatomi Nation (Nation). The Nation maintains that this application of the Kansas motor fuel tax is an impermissible affront to its sovereignty. The Court of Appeals agreed, holding that the application of the Kansas tax to fuel received by a non-Indian distributor, but subsequently delivered to the Nation, was invalid under the interest-balancing test set forth in *White Mountain Apache Tribe* v. *Bracker,* 448 U. S. 136 (1980). But the *Bracker* interest-balancing test applies only where "a State asserts authority over the conduct of non-Indians engaging in activity on the reservation." *Id.*, at 144. It does not apply where, as here, a state tax is imposed on a non-Indian and arises as a result of a transaction that occurs off the reservation. Accordingly, we reverse.

I

The Nation is a federally recognized Indian Tribe whose reservation is on United States trust land in Jackson County, Kansas. The Nation owns and operates a casino on its reservation. In order to accommodate casino patrons and other reservation-related traffic, the Nation constructed, and now owns and operates, a gas station on its reservation next to the casino. Seventy-three percent of the station's fuel sales are made to casino patrons, while 11 percent of the station's fuel sales are made to persons who live or work on the reservation. The Nation purchases fuel for its gas station from non-Indian distributors located off its reservation. Those distributors pay a state fuel tax on their initial receipt of motor fuel, Kan. Stat. Ann. §79–3408 (2003 Cum. Supp.),[1] and pass along the cost of that tax to their customers, including the Nation.[2]

The Nation sells its fuel within 2 cents per gallon of the prevailing market price. *Prairie Band Potawatomi Nation* v. *Richards,* 379 F. 3d 979, 982 (CA10 2004). It does so notwithstanding the distributor's decision to pass along the cost of the State's fuel tax to the Nation, and the Nation's decision to impose its own tax on the station's fuel sales in the amount of 16 cents per gallon of gasoline and 18 cents per gallon of diesel (increased to 20 cents for gasoline and 22 cents for diesel in January 2003). *Id.,* at 982. The Nation's fuel tax generates approximately

---

[1] The Kansas Legislature recently amended the fuel tax statute. 2005 Kan. Sess. Laws ch. 46. The text of the sections to which we refer remains the same, although the subsection numbers have changed. For consistency, our subsection references are to the 2003 version applied by the lower courts and cited by the parties.

[2] The record does not clearly establish whether the distributor passed along the cost of the tax to the Nation's gas station. At oral argument, petitioner acknowledged that the record was unclear, but represented that the distributor was in fact passing along the cost of the tax to the Nation.

$300,000 annually, funds that the Nation uses for "'constructing and maintaining roads, bridges and rights-of-way located on or near the Reservation,'" including the access road between the state-funded highway and the casino. *Ibid.*

The Nation brought an action in Federal District Court for declaratory judgment and injunctive relief from the State's collection of motor fuel tax from distributors who deliver fuel to the reservation. The District Court granted summary judgment in favor of the State. Applying the *Bracker* interest-balancing test, it determined that the balance of state, federal, and tribal interests tilted in favor of the State. The court reached this determination because "it is undisputed that the legal incidence of the tax is directed off-reservation at the fuel distributors," *Prairie Band Potawatomi Nation* v. *Richards,* 241 F. Supp. 2d 1295, 1311 (Kan. 2003), and because the ultimate purchasers of the fuel, non-Indian casino patrons, receive the bulk of their governmental services from the State, *id*., at 1309. The court held that the State's tax did not interfere with the Nation's right of self-government, adding that "a tribe cannot oust a state from any power to tax on-reservation purchases by nonmembers of the tribe by simply imposing its own tax on the transactions or by otherwise earning its revenues from the tribal business." *Id*., at 1311.

The Court of Appeals for the Tenth Circuit reversed. 379 F. 3d 979 (2004). It determined that, under *Bracker*, the balance of state, federal, and tribal interests favored the Tribe. The Tenth Circuit reasoned that the Nation's fuel revenues were "derived from value generated primarily on its reservation," 379 F. 3d, at 984—namely, the creation of a new fuel market by virtue of the presence of the casino—and that the Nation's interests in taxing this reservation-created value to raise revenue for reservation infrastructure outweighed the State's "general interest in

raising revenues," *id.*, at 986. We granted certiorari, 543 U. S. 1186 (2005), and now reverse.

II

Although we granted certiorari to determine whether Kansas may tax a non-Indian distributor's *off-reservation* receipt of fuel without being subject to the *Bracker* interest-balancing test, Pet. for Cert. i, the Nation maintains that Kansas' "tax is imposed not on the off-reservation receipt of fuel, but on its *on-reservation sale and delivery,*" Brief for Respondent 11 (emphasis in original). As the Nation recognizes, under our Indian tax immunity cases, the "who" and the "where" of the challenged tax have significant consequences. We have determined that "[t]he initial and frequently dispositive question in Indian tax cases . . . is *who* bears the legal incidence of [the] tax," *Oklahoma Tax Comm'n* v. *Chickasaw Nation,* 515 U. S. 450, 458 (1995) (emphasis added), and that the States are categorically barred from placing the legal incidence of an excise tax "*on a tribe or on tribal members* for sales made *inside Indian country*" without congressional authorization, *id.*, at 459 (emphasis added). We have further determined that, even when a State imposes the legal incidence of its tax on a non-Indian seller, the tax may nonetheless be pre-empted if the transaction giving rise to tax liability occurs on the reservation and the imposition of the tax fails to satisfy the *Bracker* interest-balancing test. See 448 U. S. 136 (holding that state taxes imposed on on-reservation logging and hauling operations by non-Indian contractor are invalid under the interest-balancing test); cf. *Central Machinery Co.* v. *Arizona Tax Comm'n,* 448 U. S. 160 (1980) (holding that the Indian trader statutes pre-empted Arizona's tax on a non-Indian seller's on-reservation sales).

The Nation maintains that it is entitled to prevail under the categorical bar articulated in *Chickasaw* because "[t]he fairest reading of the statute is that the legal inci-

dence of the tax actually falls on the Tribe [on the reservation]." Brief for Respondent 17, n. 5. The Nation alternatively maintains it is entitled to prevail even if the legal incidence of the tax is on the non-Indian distributor because, according to the Nation, the tax arises out of a distributor's on-reservation transaction with the Tribe and is therefore subject to the *Bracker* balancing test. Brief for Respondent 15. We address the "who" and the "where" of Kansas' motor fuel tax in turn.

A

Kansas law specifies that "the incidence of [the motor fuel] tax is imposed on the distributor of the first receipt of the motor fuel." Kan. Stat. Ann. §79–3408(c) (2003 Cum. Supp.). We have suggested that such "dispositive language" from the state legislature is determinative of who bears the legal incidence of a state excise tax. *Chickasaw*, *supra,* at 461. But even if the state legislature had not employed such "dispositive language," thereby requiring us instead to look to a "fair interpretation of the taxing statute as written and applied," *California Bd. of Equalization* v. *Chemehuevi Tribe,* 474 U. S. 9, 11 (1985) *(per curiam)*, we would nonetheless conclude that the legal incidence of the tax is on the distributor.

Kansas law makes clear that it is the distributor, rather than the retailer, that is liable to pay the motor fuel tax. Section 79–3410(a) (1997) provides, in relevant part, that "[e]very distributor . . . shall compute and shall pay to the director . . . the amount of [motor fuel] taxes due to the state." While the distributors are "entitled" to pass along the cost of the tax to downstream purchasers, see §79–3409 (2003 Cum. Supp.), they are not required to do so. In sum, the legal incidence of the Kansas motor fuel tax is on the distributor. The lower courts reached the same conclusion. 379 F. 3d, at 982 ("The Kansas legislature structured the tax so that its legal incidence is placed on non-

Indian distributors"); 241 F. Supp. 2d, at 1311 ("[I]t is undisputed that the legal incidence of the tax is directed off-reservation at the fuel distributors"); see also *Sac and Fox Nation of Missouri* v. *Pierce*, 213 F. 3d 566, 578 (CA10 2000) ("[T]he legal incidence of the [Kansas] tax law as presently written falls on the fuel distributors rather than on the Tribes"); *Winnebago Tribe of Nebraska* v. *Kline*, 297 F. Supp. 2d 1291, 1294 (Kan. 2004) ("Under the Kansas statutory scheme, the legal incidence of the state's fuel tax falls on the 'distributor of first receipt' of such fuel"); *Sac and Fox Nation of Missouri* v. *LaFaver*, 31 F. Supp. 2d 1298, 1307 (Kan. 1998) ("[T]he statutes are extremely clear in providing that the tax in question is imposed upon the distributor"). And the Kansas Department of Revenue, the state agency charged with administering the motor fuel tax, has concluded likewise. See Letter from David J. Heinemann, Office of Administrative Appeals, to Mark Burghart, Written Final Determination in Request for Informal Conference for Reconsideration of Agency Action, *Davies Oil Co., Inc.,* Docket No. 01–970 (Jan. 3, 2002) (hereinafter Kansas Dept. of Revenue Letter) ("The legal incidence of the Kansas fuel tax rests with Davies, the distributor, who is up-stream from Nation, the retailer").

The United States, as *amicus*, contends that this conclusion is foreclosed by the Kansas Supreme Court's decision in *Kaul* v. *Kansas Dept. of Revenue*, 266 Kan. 464, 970 P. 2d 60 (1998). The United States reads *Kaul* as holding that the legal incidence of Kansas' motor fuel tax rests on the Indian retailers, rather than on the non-Indian distributors. And, under the United States' view, so long as the Kansas Supreme Court's "'definitive determination as to the operating incidence'" of its fuel tax is "'consistent with the statute's reasonable interpretation,'" it should be "'deemed conclusive.'" Brief for United States as *Amicus Curiae* 10 (quoting *Gurley* v. *Rhoden,* 421 U. S. 200, 208

(1975)).

We disagree with the United States' interpretation of *Kaul*. In *Kaul*, two members of the Citizen Band Potawatomi Tribe of Oklahoma sought to enjoin the enforcement of Kansas' fuel tax on fuel delivered to their gas station located on the Prairie Band Potawatomi Tribe of Kansas' Reservation. The Kansas Supreme Court determined that the station owners had standing to challenge the tax because the statute provided that the distributor was entitled to "'charge and collect such tax . . . as a part of the selling price.'" *Kaul, supra,* at 474, 970 P. 2d, at 67 (quoting Kan. Stat. Ann. §79–3409 (1995); emphasis deleted). The court determined that the station owners were not entitled to an injunction, however, because they were not members of a Kansas Tribe and thus there had "been no showing by Retailers that payment of fuel tax to Kansas interferes with the self-government of a Kansas tribe or a Kansas tribal member." 266 Kan., at 464, 970 P. 2d, at 69. The court then noted that "the legal incidence of the tax on motor fuel rests on nontribal members and does not affect the Potawatomi Indian reservation within the state of Kansas." *Ibid.*

Kaul does not foreclose our determination that the distributor bears the legal incidence of the Kansas motor fuel tax. As an initial matter, it is unclear whether the court's reference to "nontribal members" is a reference to the non-tribal-member retailers or the non-tribal-member distributors. At the very least, *Kaul*'s imprecise language cannot be characterized as a definitive determination. Moreover, the 1998 amendments to the Kansas fuel provisions, including the amendment to §79–3408(c) that provides that "the incidence of this tax is imposed on the distributor," were not applied in *Kaul*. *Id.,* at 473, 970 P. 2d, at 66 (identifying provisions that were repealed in 1998 as being "in effect during the period relevant to this case"); *id.*, at 474, 970 P. 2d, at 67 (noting that a "critical

statute" to its holding was the 1995 version of §79–3409, which was amended in 1998). Accordingly, *Kaul* did not speak authoritatively on the provisions before us today.

B

The Nation maintains that we must apply the *Bracker* interest-balancing test, irrespective of the identity of the taxpayer (*i.e.,* the party bearing the legal incidence), because the Kansas fuel tax arises as a result of the *on-reservation* sale and delivery of the motor fuel. See Brief for Respondent 15. Notably, however, the Nation presented a starkly different interpretation of the statute in the proceedings before the Court of Appeals, arguing that "[t]he balancing test is appropriate even though the legal incidence of the tax is imposed on the Nation's non-Indian distributor and is triggered by the distributor's receipt of fuel *outside the reservation*." Appellant's Reply Brief in No. 03–3218 (CA10), p. 3 (emphasis added); see also 241 F. Supp. 2d, at 1311 (District Court observing that "it is undisputed that the legal incidence of the tax is directed off-reservation at the fuel distributors"). A "fair interpretation of the taxing statute as written and applied," *Chemehuevi Tribe,* 474 U. S., at 11, confirms that the Nation's interpretation of the statute before the Court of Appeals was correct.

As written, the Kansas fuel tax provisions state that "the incidence of this tax is imposed on the distributor of the first receipt of the motor fuel and such taxes shall be paid but once. Such tax shall be computed on all motor-vehicle fuels or special fuels received by each distributor, manufacturer or importer in this state and paid in the manner provided for herein . . . ." Kan. Stat. Ann. §79–3408(c) (2003 Cum. Supp.). Under this provision, the distributor who initially receives the motor fuel is liable for payment of the fuel tax, and the distributor's tax liability is determined by calculating the amount of fuel received by the distributor.

Section 79–3410(a) (1997) confirms that it is the distributor's off-reservation receipt of the motor fuel, and not any subsequent event, that establishes tax liability. That section provides:

> "[E]very distributor, manufacturer, importer, exporter or retailer of motor-vehicle fuels or special fuels, on or before the 25th day of each month, shall render to the director . . . a report certified to be true and correct showing the number of gallons of motor-vehicle fuels or special fuels received by such distributor, manufacturer, importer, exporter or retailer during the preceding calendar month . . . . Every distributor, manufacturer or importer within the time herein fixed for the rendering of such reports, shall compute and shall pay to the director at the director's office the amount of taxes due to the state on all motor-vehicle fuels or special fuels received by such distributor, manufacturer or importer during the preceding calendar month."

Thus, Kansas law expressly provides that a distributor's monthly tax obligations are determined by the amount of fuel received by the distributor during the preceding month. See *Kline*, 297 F. Supp. 2d, at 1294 ("The distributor must compute and remit the tax each month for the fuel received by the distributor in the State of Kansas").

The Nation disagrees. It contends that what is taxed is not the distributors' (off-reservation) receipt of the fuel, but rather the distributors' use, sale, or delivery of the motor fuel—in this case, the distributors' (on-reservation) sale or delivery to the Nation. The Nation grounds support for this proposition in §79–3408(a) (2003 Cum. Supp.). That section provides that "[a] tax . . . is hereby imposed on the use, sale or delivery of all motor vehicle fuels or special fuels which are used, sold or delivered in this state for any purpose whatsoever." But this section

cannot be read in isolation. If it were, it would permit Kansas to tax the same fuel multiple times—namely, every time fuel is sold, delivered, or used. Section 79–3408(a) must be read in conjunction with subsection (c), which specifies that "the incidence of this tax is imposed on the distributor of the first receipt of the motor fuel *and such taxes shall be paid but once*." (Emphasis added.) The identity of the single, taxable event is revealed in the very next sentence of subsection (c), which provides that "[s]uch tax shall be computed on all . . . fuels *received by each distributor*." (Emphasis added.) In short, the "use, sale or delivery" that triggers tax liability is the sale or delivery of the fuel to the distributor. The Kansas Department of Revenue has issued a final determination reaching the same conclusion. See Kansas Dept. of Revenue Letter ("[P]ursuant to the Kansas Motor Fuel Tax Act . . . the state fuel tax was imposed on Davies, a distributor, *when Davies first received the fuel at its business, a site located off of Nation's reservation*" (emphasis added)).

The Nation claims further support for its interpretation of the statute in §79–3408(d) (2003 Cum. Supp.). Section 79–3408(d) permits distributors to obtain deductions from the Kansas motor fuel tax for certain postreceipt transactions, such as sale or delivery of fuel for export from the State and sale or delivery of fuel to the United States. §§79–3408(d)(1)–(2). The Nation argues that these exemptions make it impossible for a distributor to calculate its "ultimate tax liability" without knowing "whether, where, and to whom the fuel is ultimately sold or delivered." Brief for Respondent 15. The Nation infers from these provisions that the taxable event is actually the distributors' postreceipt delivery of fuel to retailers such as the Nation, rather than the distributors' initial receipt of the fuel.

The Nation's theory suffers from a number of conceptual defects. First, under Kansas law, a distributor must pay

the tax even for fuel that sits in its inventory—fuel that is not (or at least has not yet been) used, sold, or delivered by the distributor.[3] But the Nation's interpretation presumes that the tax is owed *only* on a distributor's postreceipt use, sale, or delivery of fuel. As this interpretation cannot be reconciled with the manner in which the Kansas motor fuel tax is actually applied, it must be rejected.[4] Second,

---

[3] This understanding of the application of the Kansas fuel tax is confirmed by the form that fuel distributors are required to fill out each month pursuant to Kan. Stat. Ann. §79–3410 (1997). See Kansas Form MF–52, available at http://www.ksrevenue.org/pdf/forms/mf52.pdf (as visited Nov. 21, 2005, and available in Clerk of Court's case file). The form instructs distributors to enter in line 1 "the total net gallons of gasoline, gasohol and special fuel received or imported" during the preceding month. *Id.,* at 2. The distributors may then "[e]nter the deductions that apply to your business" in lines 2(a)-to-(e) for the preceding month. Those deductions include "[n]et gallons of fuel exported from Kansas," "[n]et gallons of fuel sold to the U. S. Government," "[n]et gallons of fuel sold for aviation purposes," and "[n]et gallons of dyed diesel fuel *received* for the month," the very deductions described in §79–3408(d), *ibid.* (emphasis added). The distributor's tax liability is then calculated by subtracting the total deductions from the total fuel received, and applying the 2.5 percent handling allowance to the difference. Thus, the event that generates a distributor's tax liability is its receipt of fuel. And the distributor must pay tax on that fuel even if it is not subsequently delivered or sold. While a distributor may decrease its tax liability by engaging in transactions that entitle it to deductions, such as by selling or delivering fuel to an exempt entity like the United States, its tax liability is unaffected by sales or deliveries to nonexempt entities like the Nation.

[4] Indeed, the dissent acknowledges that tax is owed on fuel a distributor receives and holds in inventory—and thus implicitly concedes that the distributors' off-reservation receipt of motor fuel is the event that gives rise to tax liability. See *post*, at 5 (opinion of GINSBURG, J.). While the dissent contends that such tax is ultimately "effectively offset" by a subsequent delivery of the inventoried fuel, *ibid.,* the dissent does not explain the meaning of this opaque contention. A distributor's subsequent delivery of fuel to the Nation or any other fuel retailer in Kansas has *no effect* on tax that it has already paid in a preceding month. Indeed, the distributor does not report delivery to retailers on its monthly tax return. See Kansas Form MF–52. And a

the availability of tax deductions does not change the nature of the taxable event, here the distributor's receipt of the fuel. By analogy, an individual federal income taxpayer may reduce his tax liability by paying home mortgage interest. But that entitlement does not render the taxable event anything other than the receipt of income by the taxpayer. See 26 U. S. C. §1 (2000 ed. and Supp. II), §163(h) (2000 ed.); cf. *North American Oil Consol.* v. *Burnet,* 286 U. S. 417, 424 (1932) (federal income tax liability arises when "a taxpayer . . . has received income").

Finally, the Nation contends that its interpretation of the statute is supported by Kan. Stat. Ann. §79–3417 (1997), which permits a refund—in certain circumstances—for destroyed fuel. However, the Nation's interpretation is actually foreclosed by that section. Section 79–3417 entitles a distributor to a "refund from the state of the amount of motor-vehicle fuels or special fuels tax paid on any . . . fuels of 100 gallons or more in quantity, which are lost or destroyed at any one time while such distributor is the owner thereof," provided the distributor supplies the required notification and documentation to the State. This section illustrates that a distributor pays taxes for fuel in its possession that it has not delivered or sold, and is only entitled to the refund described in this section for tax it has already paid on fuel that is subsequently destroyed. While this section does not specify the event that gives rise to the distributor's tax liability, it forecloses the Nation's contention that such liability does not arise until fuel is sold or delivered to a nonexempt entity.

III

Although Kansas' fuel tax is imposed on non-Indian distributors based upon those distributors' off-reservation

---

distributor must pay the tax even if the fuel is *never* delivered.

receipt of motor fuel, the Tenth Circuit concluded that the tax was nevertheless still subject to the interest-balancing test this Court set forth in *Bracker,* 448 U. S. 136. As *Bracker* itself explained, however, we formulated the balancing test to address the "difficult questio[n]" that arises when "a State asserts authority over the conduct of non-Indians engaging in activity *on the reservation*." *Id.*, at 144–145 (emphasis added). The *Bracker* interest-balancing test has never been applied where, as here, the State asserts its taxing authority over non-Indians off the reservation. And although we have never addressed this precise issue, our Indian tax immunity cases counsel against such an application.

A

We have applied the balancing test articulated in *Bracker* only where "the legal incidence of the tax fell on a nontribal entity engaged in a transaction with tribes or tribal members," *Arizona Dept. of Revenue* v. *Blaze Constr. Co.,* 526 U. S. 32, 37 (1999), on the reservation. See *Bracker*, *supra* (motor carrier license and use fuel taxes imposed on on-reservation logging and hauling operations by non-Indian contractor); *Department of Taxation and Finance of N. Y.* v. *Milhelm Attea & Bros.,* 512 U. S. 61 (1994) (various taxes imposed on non-Indian purchasers of goods retailed on-reservation); *Cotton Petroleum Corp.* v. *New Mexico,* 490 U. S. 163 (1989) (state severance tax imposed on non-Indian lessee's on-reservation production of oil and gas); *Ramah Navajo School Bd., Inc.* v. *Bureau of Revenue of N. M.,* 458 U. S. 832 (1982) (state gross receipts tax imposed on private contractor's proceeds from the construction of a school on the reservation); *Washington* v. *Confederated Tribes of Colville Reservation,* 447 U. S. 134 (1980) (cigarette and sales taxes imposed on on-reservation purchases by nonmembers); *Central Machinery Co.,* 448 U. S. 160 (tax imposed on on-reservation sale

of farm machinery to Tribe). Similarly, the cases identified in *Bracker* as supportive of the balancing test were exclusively concerned with the on-reservation conduct of non-Indians. See *Warren Trading Post Co.* v. *Arizona Tax Comm'n,* 380 U. S. 685 (1965) (gross proceeds tax imposed on non-Indian retailer on Navajo Indian Reservation); *Thomas* v. *Gay,* 169 U. S. 264 (1898) (state property tax imposed on cattle owned by non-Indian lessees of tribal land); *Williams* v. *Lee,* 358 U. S. 217 (1959) (holding the state courts lacked jurisdiction over dispute between non-Indian, on-reservation retailer and Indian debtors).[5]

Limiting the interest-balancing test exclusively to *on-reservation* transactions between a nontribal entity and a

---

[5] Our recent discussion in *Oklahoma Tax Comm'n* v. *Chickasaw Nation*, 515 U. S. 450 (1995), regarding the application of the interest-balancing test to motor fuel taxes is not to the contrary. In *Chickasaw,* we noted in dicta that, "if the legal incidence of the tax rests on non-Indians, no categorical bar prevents enforcement of the tax; if the balance of federal, state, and tribal interests favors the State, and federal law is not to the contrary, the state may impose its levy, and may place on a tribe or tribal members 'minimal burdens' in collecting the toll." *Id.*, at 459 (citation omitted). *Chickasaw* did not purport to expand the applicability of *White Mountain Apache Tribe* v. *Bracker*, 448 U. S. 136 (1980), to an off-reservation tax on non-Indians. Indeed, the quoted sentence reveals that *Chickasaw* discussed the applicability of the interest-balancing test in the context of a tax that is collected by the tribe—a tax that necessarily arises from on-reservation conduct.

Moreover, in purporting to craft a "'bright-line standard'" in that case, we noted that Oklahoma "generally is free" to impose the legal incidence of its motor fuel tax on the consumer—who purchases fuel on the reservation—and then require the Indian retailers to "'collect and remit the levy.'" 515 U. S., at 460. If Oklahoma would have been free to impose the legal incidence of its fuel tax downstream from the Indian retailers, then Kansas should be equally free to impose the legal incidence of its fuel tax upstream from Indian retailers notwithstanding the applicability of the interest-balancing test. Indeed, the *Chickasaw* dicta should apply *a fortiori* here; the upstream approach is *less* burdensome on the Tribe because it does not include the collecting and remitting requirements that typically, and permissibly, accompany a consumer tax.

tribe or tribal member is consistent with our unique Indian tax immunity jurisprudence. We have explained that this jurisprudence relies "heavily on the doctrine of tribal sovereignty . . . which historically gave state law 'no role to play' within a tribe's territorial boundaries." *Oklahoma Tax Comm'n* v. *Sac and Fox Nation,* 508 U. S. 114, 123–124 (1993) (quoting *McClanahan* v. *Arizona Tax Comm'n,* 411 U. S. 164, 168 (1973)). We have further explained that the doctrine of tribal sovereignty, which has a "significant geographical component," *Bracker*, *supra*, at 151, requires us to "revers[e]" the "'general rule'" that "'exemptions from tax laws should . . . be clearly expressed.'" *Sac and Fox*, *supra*, at 124 (quoting *McClanahan*, *supra*, at 176). And we have determined that the geographical component of tribal sovereignty "'provide[s] a backdrop against which the applicable treaties and federal statutes must be read.'" *Sac and Fox*, *supra*, at 124 (quoting *McClanahan*, *supra*, at 172). Indeed, the particularized inquiry we set forth in *Bracker* relied specifically on that backdrop. See 448 U. S., at 144–145 (noting that where "a State asserts authority over the conduct of non-Indians engaging in activity *on the reservation* . . . we have examined the language of the relevant federal treaties and statutes in terms of both the broad policies that underlie them and the notions of sovereignty that have developed from historical traditions of tribal independence" (emphasis added)).

We have taken an altogether different course, by contrast, when a State asserts its taxing authority outside of Indian Country. Without applying the interest-balancing test, we have permitted the taxation of the gross receipts of an off-reservation, Indian-owned ski resort, *Mescalero Apache Tribe* v. *Jones,* 411 U. S. 145 (1973), and the taxation of income earned by Indians working on-reservation but living off-reservation, *Chickasaw*, 515 U. S. 450. In these cases, we have concluded that "[a]bsent express

federal law to the contrary, Indians going beyond reservation boundaries have generally been held subject to nondiscriminatory state law otherwise applicable to all citizens of the State." *Mescalero Apache*, *supra*, at 148–149; *Chickasaw*, *supra*, at 465 (quoting *Mescalero Apache*, *supra*, at 148–149). If a State may apply a nondiscriminatory tax to Indians who have gone beyond the boundaries of the reservation, then it follows that it may apply a nondiscriminatory tax where, as here, the tax is imposed on non-Indians as a result of an off-reservation transaction. In these circumstances, the interest-balancing test set forth in *Bracker* is inapplicable. Cf. *Blaze Constr.*, 526 U. S., at 37 (declining to apply the *Bracker* interest-balancing test "where a State seeks to tax a transaction [on-reservation] between the Federal Government and its non-Indian private contractor").

The application of the interest-balancing test to the Kansas motor fuel tax is not only inconsistent with the special geographic sovereignty concerns that gave rise to that test, but also with our efforts to establish "bright-line standard[s]" in the context of tax administration. *Ibid.* ("The need to avoid litigation and to ensure efficient tax administration counsels in favor of a bright-line standard for taxation of federal contracts, regardless of whether the contracted-for activity takes place on Indian reservations"); cf. *Chickasaw*, *supra,* at 460 (noting that the legal incidence test "'provide[s] a reasonably bright-line standard'"); *County of Yakima* v. *Confederated Tribes and Bands of Yakima Nation,* 502 U. S. 251, 267–268 (1992). Indeed, we have recognized that the *Bracker* interest-balancing test "only cloud[s]" our efforts to establish such standards. *Blaze Constr.*, *supra*, at 37. Under the Nation's view, however, any off-reservation tax imposed on the manufacture or sale of any good imported by the Nation or one of its members would be subject to interest balancing. Such an expansion of the application of the

Bracker test is not supported by our cases.

Nor is the Nation entitled to interest balancing by virtue of its claim that the Kansas motor fuel tax interferes with its own motor fuel tax. As an initial matter, this is ultimately a complaint about the downstream economic consequences of the Kansas tax. As the owner of the station, the Nation will keep every dollar it collects above its operating costs. Given that the Nation sells gas at prevailing market rates, its decision to impose a tax should have no effect on its net revenues from the operation of the station; it should not matter whether those revenues are labeled "profits" or "tax proceeds." The Nation merely seeks to increase those revenues by purchasing untaxed fuel. But the Nation cannot invalidate the Kansas tax by complaining about a decrease in revenues. See *Colville*, 447 U. S., at 156 ("Washington does not infringe the right of reservation Indians to 'make their own laws and be ruled by them,' *Williams* v. *Lee,* 358 U. S. 217, 220 (1959), merely because the result of imposing its taxes will be to deprive the Tribes of revenues which they currently are receiving"). Nor would our analysis change if we accorded legal significance to the Nation's decision to label a portion of the station's revenues as tax proceeds. See *id.,* at 184, n. 9 (Rehnquist, J., concurring in part, concuring in result in part, and dissenting in part) ("When two sovereigns have legitimate authority to tax the same transaction, exercise of that authority by one sovereign does not oust the jurisdiction of the other. If it were otherwise, we would not be obligated to pay federal as well as state taxes on our income or gasoline purchases. Economic burdens on the competing sovereign . . . do not alter the concurrent nature of the taxing authority").[6]

---

[6]These authorities also foreclose the Nation's contention that the Kansas motor fuel tax is invalid, irrespective of the applicability of *Bracker*, 448 U. S. 136, because it interferes with the Nation's right to

B

Finally, the Nation contends that the Kansas motor fuel tax is invalid notwithstanding the inapplicability of the interest-balancing test, because it "exempts from taxation fuel sold or delivered to all other sovereigns," and is therefore impermissibly discriminatory. Brief for Respondent 17–20 (emphasis deleted); Kan. Stat. Ann. §§79–3408(d)(1)–(2) (2003 Cum. Supp.). But the Nation is not similarly situated to the sovereigns exempted from the Kansas fuel tax. While Kansas uses the proceeds from its fuel tax to pay for a significant portion of the costs of maintaining the roads and bridges on the Nation's reservation, including the main highway used by the Nation's casino patrons, Kansas offers no such services to the several States or the Federal Government. Moreover, to the extent Kansas fuel retailers bear the cost of the fuel tax, that burden falls equally upon all retailers within the State regardless of whether those retailers are located on an Indian reservation. Accordingly, the Kansas motor fuel tax is not impermissibly discriminatory.

* * *

For the foregoing reasons, we hold that the Kansas motor fuel tax is a nondiscriminatory tax imposed on an off-reservation transaction between non-Indians. Accordingly, the tax is valid and poses no affront to the Nation's sovereignty. The judgment of the Court of Appeals is reversed.

It is so ordered.

---

self government. See Brief for Respondent 45–47.