IN THE SUPREME COURT OF THE STATE OF ALASKA

City of Nome, Appellant, v. Norton Sound Health Corporation, Appellee.	)	Supreme Court No.: S-18833

Trial Court Case No.: 2NO-22-00095 CI

APPEAL FROM THE SUPERIOR COURT,
SECOND JUDICIAL DISTRICT AT NOME,
THE HONORABLE PAUL ROETMAN, JUDGE

BRIEF OF AMICUS STATE OF ALASKA,

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TABLE OF CONTENTS

TABLE OF AUTHORITIES ii

INTRODUCTION 1

ARGUMENT 1

I. State and local tax laws apply to tribal entities outside Indian country unless Congress expressly provides otherwise. 1

II. The *Bracker* test—used to determine whether Congress impliedly, rather than expressly, preempted state law—does not apply outside Indian country. 4

III. The Supremacy Clause requires adhering to binding Supreme Court precedent. 9

IV. To the extent this Court concludes the implied federal preemption doctrine applies outside Indian country in Alaska, the superior court's preemption analysis was incomplete. 13

CONCLUSION 16

TABLE OF AUTHORITIES

Cases

Alaska v. Native Vill. of Venetie Tribal Gov't,
522 U.S. 520 (1998) 8, 12

Becerra v. San Carlos Apache Tribe,
2024 WL 2853107 (June 6, 2024) (602 U.S. --) 14, 15

Board of Equalization for Borough of Ketchikan v. Alaska Native Bhd. & Sisterhood, Camp No. 14, 666 P.2d 1015 (Alaska 1983) 10, 11

Clauson v. Clauson,
831 P.2d 1257 (Alaska 1992) 10

Cotton Petroleum Corp. v. New Mexico,
490 U.S. 163 (1989) 4, 13

Ito v. Copper River Native Ass'n,
547 P.3d 1003 (Alaska 2024) 1

John v. Baker,
982 P.2d 738 (Alaska 1999) 4

Ketchikan Gateway Borough v. Ketchikan Indian Corp.,
75 P.3d 1042 (Alaska 2003) 10, 11, 12, 13

Mescalero Apache Tribe v. Jones,
411 U.S. 145 (1973) ..... *passim*

Michigan v. Bay Mills Indian Cmty.,
572 U.S. 782 (2014) 8

Native Vill. of Tununak v. State, Dep't of Health & Soc. Servs., Off. of Children's Servs.,
334 P.3d 165 (Alaska 2014) 9

New Mexico v. Mescalero Apache Tribe,
462 U.S. 324 (1983) 5, 12

Oklahoma Tax Com'n v. Sac and Fox Nation,
508 U.S. 114 (1993) 1

Organized Vill. of Kake v. Egan,
369 U.S. 60 (1962) 2, 3, 4, 9

Ramah Navajo School Bd., Inc. v. Bureau of Rev. of New Mexico,
458 U.S. 832 (1982) 4

Wagnon v. Prairie Band Potawatomi Nation,
546 U.S. 95 (2005) 1, 7, 8, 9, 10, 12

Washington v. Confederated Tribes of Colville Indian Reservation,
447 U.S. 134 (1980) 11

White Mountain Apache Tribe v. Bracker,
448 U.S. 136 (1980) ..... *passim*

Williams v. Lee,
358 U.S. 217 (1959) 10, 11

Federal Statutes

25 U.S.C. § 5304 15

25 U.S.C. § 5324(l) 15

25 U.S.C. § 5325(a) 14, 15

25 U.S.C. § 5388(c) 14, 15

Federal Regulations

25 C.FR. § 900.70 15

Other Authorities

Indian Health Service Manual, Chapter 3 - Contract Support Costs,
available at https://www.ihs.gov/ihm/pc/part-6/p6c3/#6-3.2A 15

INTRODUCTION

Federal preemption of state law outside of Indian country must be express.[1] Federal preemption of state law within Indian country may be implied.[2] Indian country status is determinative as to whether express or implied preemption applies.[3] Any different conclusion is contrary to binding United States Supreme Court precedent and would radically shift the State's regulatory control, especially given this Court's recent ruling[4] that tribal health consortia[5] are often extensions of the member sovereigns themselves.

ARGUMENT

I. State and local tax laws apply to tribal entities outside Indian country unless Congress expressly provides otherwise.

"Absent express federal law to the contrary, Indians going beyond reservation boundaries have generally been held subject to non-discriminatory state law otherwise

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1 *Mescalero Apache Tribe v. Jones*, 411 U.S. 145, 148–49 (1973); *White Mountain Apache Tribe v. Bracker*, 448 U.S. 136, 144 n.11 (1980).

2 *Bracker*, 448 U.S. at 142–45.

3 *Wagnon v. Prairie Band Potawatomi Nation*, 546 U.S. 95, 110–15 (2005). This brief often uses the terms "on reservation" and "off reservation," because the United States Supreme Court usually uses these terms. The dispositive factor for determining which framework applies is not, however, formal reservation status, but rather whether the tax applies within a tribe's territorial jurisdiction, often labeled as "Indian country," or outside a tribe's territorial jurisdiction. *See id.* at 112; *see also Oklahoma Tax Com'n v. Sac and Fox Nation*, 508 U.S. 114, 124–25 (1993).

4 *Ito v. Copper River Native Ass'n*, 547 P.3d 1003 (Alaska 2024).

5 This brief does not discuss whether Norton Sound Health Organization is an arm of tribes and entitled to sovereign immunity under *Ito* because that issue is not on appeal.

applicable to all citizens of the State."[6] The United States Supreme Court has held that this principle applies to state tax law and it applies in Alaska.[7]

State (and local) tax laws apply to tribal entities' off-reservation activity so long as Congress does not expressly prohibit it.[8] This principle is best articulated in *Mescalero Apache Tribe v. Jones*.[9] There, a tribe earned income from an off-reservation ski resort that it owned and operated.[10] The Court concluded that the state gross receipts tax applied to the tribal income generated by the off-reservation ski resort because Congress did not expressly state otherwise.[11] The Court announced the longtime general principle that "[a]bsent express federal law to the contrary, Indians going beyond reservation boundaries have generally been held subject to non-discriminatory state law otherwise applicable to all citizens of the State."[12] And the Court explained that this principle applies to "a State's tax laws," just as it applies to any other state law.[13]

The *Mescalero* Court contrasted the lack of express congressional intent to prohibit applicability of state income tax with Congress's express "exempt[ion] from

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6 *Mescalero*, 411 U.S. at 148–49.

7 *Id.*; *Organized Vill. of Kake v. Egan*, 369 U.S. 60, 75–76 (1962).

8 *Mescalero*, 411 U.S. at 148–49 (1973).

9 *Id.*

10 *Id.* at 146.

11 *Id.* at 148–58.

12 *Id.* at 148–49.

13 *Id.* at 149.

State and local taxation" of tribal trust land.[14] Because Congress expressly prohibits state taxation of land held in trust for tribes, the Court concluded that the state property tax did not apply to those lands despite the fact they were outside a reservation.[15]

The United States Supreme Court has applied the *Mescalero* principle in Alaska.[16] When the Court articulated the *Mescalero* principle, it explained it as coming from a series of cases, first and foremost, an Alaska case:

> "State authority over Indians is yet more extensive over activities . . . not on any reservation." *Organized Village of Kake, supra*, 369 U.S., at 75 []. Absent express federal law to the contrary, Indians going beyond reservation boundaries have generally been held subject to non-discriminatory state law otherwise applicable to all citizens of the State. *See, e.g., . . . Organized Village of Kake, supra*, 369 U.S., at 75–76.[17]

In *Organized Village of Kake v. Egan*, the Court considered whether a state fishing law applied to tribal fishing outside of a reservation (the Alaskan tribes at issue did not have reservations).[18] The Court held that while the State's ability to regulate tribal activities *on reservation* was cabined by whether the state law would interfere with tribal self-government or impair a federally granted or reserved right, no such framework applied off reservation.[19] Rather, "State authority over Indians is yet more extensive over

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14 *Mescalero*, 411 U.S. 155 & n.11, 158.

15 *Id.* at 158.

16 *Organized Vill. of Kake v. Egan*, 369 U.S. 60 (1962).

17 *Mescalero*, 411 U.S. at 148–49.

18 *Organized Vill. of Kake*, 369 U.S. 60.

19 *Id.* at 74–75; *Mescalero*, 411 US. at 148. Whether a state law interferes with a tribe's ability to govern itself is not at issue here, but it is discussed more below. *See infra* pp. 10–11.

activities, such as in this case, not on any reservation."[20] "Even where reserved by federal treaties, off-reservation hunting and fishing rights have been held subject to state regulation."[21] Although Alaska is different in many ways, including that there is minimal Indian country here,[22] that does not mean this Court should eschew binding precedent to erase those differences. As the United States Supreme Court has held, the *Mescalero* principle—that state law applies to tribal entities off-reservation unless Congress expressly states otherwise—applies in Alaska.[23]

II. The *Bracker* test—used to determine whether Congress impliedly, rather than expressly, preempted state law—does not apply outside Indian country.

Although *Mescalero* applies *outside* Indian country, it does not apply *inside* Indian country. Rather, when considering the applicability of state tax law in Indian country, courts ask whether Congress impliedly preempted the state tax law.[24]

The framework for considering implied federal preemption of state tax law is explained in *White Mountain Apache Tribe v. Bracker*.[25] Courts use this framework to analyze whether federal law impliedly preempts a state tax in Indian country.[26] To

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20 *Organized Vill. of Kake*, 369 U.S. at 75.

21 *Id.*

22 *See generally John v. Baker*, 982 P.2d 738 (Alaska 1999) (discussing non-territorial jurisdiction of tribes over its members).

23 *See Organized Vill. of Kake*, 369 U.S. 60; *Mescalero*, 411 U.S. at 148–49.

24 *White Mountain Apache Tribe v. Bracker*, 448 U.S. 136 (1980).

25 *Id.*

26 *See, e.g.*, *Cotton Petroleum Corp. v. New Mexico*, 490 U.S. 163, 176–87 (1989) (using the *Bracker* framework to decide that a state tax of on-reservation oil production by non-Indian lessees was not preempted); *Ramah Navajo School Bd., Inc. v. Bureau of Rev. of New Mexico*, 458 U.S. 832, 837–47 (1982) (using *Bracker* framework to decide

determine whether a federal law impliedly preempts state law, courts look at "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."[27] Relevant to this analysis is a "particularized inquiry into the nature of the state, federal, and tribal interests at stake."[28]

Bracker illustrates how to apply the implied federal preemption test. There, a state sought to apply its motor carrier and fuel taxes to a non-Indian logging corporation operating solely on a reservation.[29] After discussing the comprehensive federal management of harvesting Indian timber, the Court concluded there was simply "no room for these [state] taxes in the comprehensive federal regulatory scheme."[30] The Court found that the imposition of state taxes would override the overall federal objective of guaranteeing Indians "the benefit of whatever profit" the forest may yield by diminishing the Tribe's revenue from timber sales.[31] And it would undermine specific aspects of the federal scheme because some of the proceeds of the timber would have to be spent on

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that state tax of gross receipts for construction of school for Indian children on reservation was preempted). The Court has also applied this framework outside the tax context, but still *on reservation*. *See, e.g.*, *New Mexico v. Mescalero Apache Tribe*, 462 U.S. 324 (1983) (applying *Bracker* framework to hold that federal law impliedly preempted state regulatory hunting and fishing laws on reservation).

27 *Bracker*, 448 U.S. at 144–45.

28 *Id.* at 145.

29 *Id.* at 137–38.

30 *Id.* at 145–48.

31 *Id.* at 149 (citing federal regulation).

state taxes instead of, for instance, fire control.[32] Plus, the State was not providing governmental functions for the taxes such as building, maintaining, and policing roads, but simply seeking general revenue.[33]

The Supreme Court has repeatedly concluded that the implied preemption doctrine does *not* apply outside Indian country. In *Bracker* itself, the Supreme Court contrasted the framework for determining a state law's applicability *on reservation* with the framework for determining a state law's applicability *off reservation*. The *Bracker* Court, which dealt with on-reservation conduct, "rejected the proposition that in order to find a particular state law to have been preempted by operation of federal law, express congressional statement to that effect is required."[34] But right after saying this, it noted: "In the case of 'Indians going beyond reservation boundaries,' however, 'a nondiscriminatory state law' is generally applicable in the absence of 'express federal law to the contrary.'"[35] *Bracker* itself thus recognized that its implied preemption framework applies only on reservation, whereas the express preemption framework articulated in *Mescalero* applies off reservation.

A quarter century after *Bracker*, the Supreme Court reiterated that the *Bracker* implied preemption test "applies only where 'a State asserts authority over the conduct of

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32 *Id.* at 150.

33 *Id.*

34 *Id.* at 144.

35 *Id.* at 144 n.11 (quoting *Mescalero*, 411 U.S. at 148–149)

non-Indians engaging in activity on the reservation.'"[36] In *Wagnon v. Prairie Band Potawatomi Nation*, the Tribe sought to enjoin the State from collecting fuel tax applied to a distributor's off-reservation receipt of fuel because after receiving the fuel, the distributor delivered it to the reservation and passed on the cost of the tax to the tribally-owned gas station.[37] The Tribe did not argue that *Bracker* applies in the absence of a reservation.[38] *Mescalero* was then and still is settled law. The question in *Wagnon* was where the taxed event occurred. The Tribe argued that the tax was directed to and felt on the reservation so *Bracker* should apply, and the State argued the tax applied to off-reservation transactions so *Mescalero* should apply.[39] The Court concluded that the tax fell on an off-reservation transaction.[40] And it explained that *Bracker*'s implied preemption test did not apply because that test was limited "exclusively to *on-reservation* transactions between a nontribal entity and a tribe or tribal member."[41] When explaining

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36 *Wagnon v. Prairie Band Potawatomi Nation*, 546 U.S. 95, 99 (2005) (quoting *Bracker*).

37 *Id.* at 99.

38 *Wagnon*, 2005 WL 1660192, at *14, 16 (Tribe's brief) ("The major premise of the State's argument is that the state tax 'is *imposed* on the *off-reservation receipt* of motor fuel by the distributor.' [] But that is incorrect." "[T]he state tax is imposed on the sale or delivery of fuel to the reservation."). The Tribe also argued that to the extent the Court considered the taxed conduct to occur off reservation, the burden was felt on reservation and so *Bracker* should apply. *Id.* at *22–27.

39 *Wagnon*, 2005 WL 1660192, *13–17 (Tribe's brief); 2005 WL 1141256, *10, 14–21 (State's brief).

40 *Wagnon*, 546 U.S. at 106–10.

41 *Id.* at 112 (emphasis original).

this limitation, the *Wagnon* Court italicized the phrase "on-reservation."[42] And when quoting *Bracker's* holding directly, the *Wagnon* Court again emphasized the phrase "*on the reservation.*"[43] The Court repeatedly emphasized the phrases *on the reservation* and *on-reservation* because the Court's "unique Indian tax immunity jurisprudence" relies heavily on the "significant geographical component" of tribal sovereignty.[44]

That the tax at issue in *Wagnon* fell directly on a non-Indian entity (and only indirectly on the Tribe) was not relevant to the Court's determining that the express (not implied) preemption framework applied. The Court explained that in previous cases, such as *Mescalero*, the implied preemption test did not apply when conduct was off-reservation—regardless on whom the tax fell.[45] The rule remains: "absent 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."[46] And it reasoned, "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

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42 *Id.* at 112.

43 *Id.* at 110, 112.

44 *Id.* In this same vein, tribal territorial jurisdiction is also critical to a tribe's ability to tax. *Alaska v. Native Vill. of Venetie Tribal Gov't*, 522 U.S. 520 (1998). But the importance of territorial jurisdiction is not limited to taxes. In *Michigan v. Bay Mills Indian Cmty.*, the Court repeated the *Mescalero* principle, asserting that a state's generally applicable gaming laws apply "beyond reservation boundaries," even though sovereign immunity prevents a state from suing the tribe to enforce those laws. 572 U.S. 782, 795 (2014).

45 *Wagnon*, 546 U.S. at 112–13.

46 *Id.* at 113 (quoting *Mescalero*, 411 U.S. at 148–49) (brackets omitted).

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."[47] Finally, the Court explained that limiting *Bracker's* implied preemption test to on-reservation activity is also in line with its jurisprudence of establishing "'bright-line standards' in the context of tax administration."[48]

In sum, the United States Supreme Court has held that the *Bracker* test permitting preemption to be found impliedly (rather than expressly) applies only when the state tax falls within a tribe's territorial jurisdiction.

III. The Supremacy Clause requires adhering to binding Supreme Court precedent.

The United States Supreme Court is free to reverse *Organized Village of Kake*, such that the *Mescalero* principle (which provides that off-reservation Indians are subject to non-discriminatory state law in the absence of express federal law to the contrary) does not apply to Alaska. And that Court is free to reverse *Wagnon*, such that the *Bracker* framework of implied preemption applies outside a tribe's territorial jurisdiction. Until then, because "the Supreme Court has decided a question of federal law that is directly applicable to and binding on [this] case," this Court "owe[s] obedience to the decisions of the Supreme Court of the United States . . . and a judgment of the Supreme Court provides the rule to be followed."[49]

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47 *Id.*

48 *Id.* (brackets and citation omitted).

49 *Native Vill. of Tununak v. State, Dep't of Health & Soc. Servs., Off. of Children's Servs.*, 334 P.3d 165, 175 (Alaska 2014) (ellipses original, citation omitted); *see also*

Notably, this Court has never concluded that the *Bracker* implied preemption test applies in Alaska outside Indian country. Before the *Wagnon* Court clarified that indeed the *Bracker* implied preemption framework applies only within a tribe's territorial jurisdiction, this Court twice considered whether municipalities can tax tribal organizations in Alaska.[50] The Court affirmed application of the municipal taxes in both situations.[51]

In the first case, *Board of Equalization v. Alaska Native Brotherhood*, this Court "assum[ed]" some sort of interest balancing test applied outside reservations without having to actually decide the issue, because even under such a test, the Court found the tax reasonably applied.[52] The test the Court considered was not the implied federal preemption test from *Bracker*, which asks whether a federal law (or set of federal laws) impliedly preempts state law. Rather, this Court looked at the infringement test from *Williams v. Lee*[53], which asks, "absent governing Acts of Congress . . . whether the state action infringed on the right of reservation Indians to make their own laws and be ruled by them."[54] The infringement framework is not based on congressional intent and federal

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Clauson v. Clauson, 831 P.2d 1257, 1264 (Alaska 1992) (holding Supremacy Clause bars court from issuing an order in contravention of U.S. Supreme Court holding).

50 *Ketchikan Gateway Borough v. Ketchikan Indian Corp.*, 75 P.3d 1042 (Alaska 2003); *Bd. of Equalization for Borough of Ketchikan v. Alaska Native Bhd. & Sisterhood, Camp No. 14*, 666 P.2d 1015 (Alaska 1983).

51 *Id.*

52 666 P.2d at 1022.

53 *Id.* at 1021–22 (citing *Williams v. Lee*, 358 U.S. 217, 220 (1959)).

54 *Williams v. Lee*, 358 U.S. at 220.

preemption, but rather platonic notions of tribal sovereignty.[55] Though related, the preemption framework is "independent" of the infringement framework.[56] Applying the infringement test in *Board of Equalization* (which this Court noted would not apply under its own terms because the Tribe was "obviously not a reservation Indian tribe"), this Court rejected the Tribe's argument that the borough tax unduly infringed its ability to self-govern.[57] In this case, Norton Sound did not argue below that the municipal tax inhibits its member tribes' ability to govern themselves [Exc. 14–15], and it does not make that argument on appeal. [Ae. Br. 35–36]

In the second case, *Ketchikan Gateway Borough v. Ketchikan Indian Corporation*, no party contested the superior court's application of the federal implied preemption test.[58] On appeal, this Court applied the same test and found no implied preemption.[59] There was no need for the Court to *sua sponte* raise and decide whether *Bracker* applies outside Indian country because the Court concluded that even under the *Bracker* test, the

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55 *See Williams v. Lee*, 358 U.S. at 220.

56 *Bracker*, 448 U.S. at 142–43.

57 *Alaska Native Bhd.*, 666 P.2d at 1021–22 (quoting *Washington v. Confederated Tribes of Colville Indian Reservation*, 447 U.S. 134, 156 (1980) ("Washington does not infringe the right of reservation Indians to 'make their own laws and be ruled by them, *Williams v. Lee*, . . . merely because the result of imposing its taxes will be to deprive the Tribes of receiving revenues which they are currently receiving.").

58 75 P.3d 1042, 1044–48 (Alaska 2003); *see also* 2001 WL 34779196 ("In the present appeal, the Borough and the BOE do not challenge the Superior Court's ruling applying the ISDEAA to preempt ad valorem taxes on those portions of the structure which are actually used for clinic and related purposes under an AFA between the KIC and the Department of Interior."), 2002 WL 32829646, 2002 WL 32829647 (appellate briefs).

59 *Ketchikan Gateway Borough*, 75 P.3d at 1045–48.

tax was not impliedly preempted.[60] Nevertheless, the Court noted that "the Ninth Circuit takes the position that the *Bracker* implied preemption doctrine does not apply outside of Indian country."[61] Two years later, the United States Supreme Court confirmed the same.[62]

Jettisoning the binding *Mescalero* principle because Alaska is different would not only be contrary to United States Supreme Court precedent, but it would also undercut state regulatory authority. The *Bracker* implied preemption test does not apply only to tax issues. Courts have also applied it to other state laws as well.[63] Would the applicability of state vehicle registration and licensing be subject to balancing when applied to tribal members? What about state fishing laws? Would courts balance state, federal, and tribal interests to determine whether federal law impliedly preempts tribal organizations from opening gaming facilities outside Indian country? Importing *Bracker* throughout Alaska would make the applicability of state law turn on a highly subjective interest-balancing standard.

Given all of this, the Court should decline to conclude that *Bracker's* implied federal preemption doctrine applies outside Indian country in Alaska.

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60 *See id.* at 1048.

61 *Id.* at 1047 n.22. Norton Sound does not argue here that the tax falls on property in Indian country. "Indian country" is statutorily defined for the purpose of federal criminal jurisdiction and has been imported into federal common law to define the contours of civil jurisdiction. *Alaska v. Native Vill. of Venetie Tribal Gov't*, 522 U.S. 520, 526–27 (1998). There is almost no Indian country in Alaska. *See generally id.*

62 *Wagnon*, 546 U.S. at 112.

63 *See, e.g.*, *New Mexico v. Mescalero Apache Tribe*, 462 U.S. 324 (1983).

IV. To the extent this Court concludes the implied federal preemption doctrine applies outside Indian country in Alaska, the superior court's preemption analysis was incomplete.

To begin, if the Court concludes that the property at issue falls under either the hospital or charitable purpose exemption to taxation, it need not also address whether the *Bracker* framework applies. And if this Court follows binding Supreme Court precedent, it not need also analyze how the *Bracker* framework applies. This Court should review the superior court's application of *Bracker* only if the Court concludes that (1) neither the charitable nor hospital purpose exemption applies, and (2) the implied federal preemption doctrine applies outside Indian country in Alaska. In that case, the Court should conclude the municipal tax is not impliedly preempted.

Determining whether federal legislation has impliedly preempted state or local law in Indian tax cases is "primarily an exercise in examining congressional intent."[64] To understand congressional intent, courts examine the specific federal, tribal, and state interests at stake and recognize that Congress legislates against the backdrop of tribal sovereignty.[65] This Court has identified two criteria for a preemption finding: "comprehensive and pervasive federal oversight" and a "relatively inconsequential state interest."[66] Although these are criteria, they are not the only considerations. And the ultimate question comes back to congressional intent.

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64 *Cotton Petroleum Corp. v. New Mexico*, 490 U.S. 163, 176 (1989) (considering whether Congress impliedly preempted state taxation of lessees of Indian land).

65 *Id.*

66 *Ketchikan Gateway Borough*, 75 P.3d at 1048.

The superior court's analysis was deficient because it failed to appreciate how Congress, through the Indian Self-Determination and Education Assistance Act, intended to fund costs like municipal taxes. The superior court found that staff housing is a service Norton Sound must provide under its ISDEAA contract. [Exc. 178–79] And it found that the federal government has pervasive oversight over ISDEAA contracts. [Exc. 179] But it ignored the multiple ways ISDEAA authorizes (and seemingly require) funding municipal taxes that are not exempt under state law.

When tribal organizations take over providing healthcare that the Indian Health Service would otherwise provide, the organizations are entitled to the costs that the Secretary of Health and Human Services would have incurred had it provided the healthcare itself (i.e., the "Secretarial amount").[67] So, if the Indian Health Service included staff housing in its direct provision of healthcare, the federal government would be obligated to provide funding for staff housing to the tribal organization now executing the ISDEAA agreement. The Secretarial amount is a floor, and tribes can negotiate for more services.[68]

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67 25 U.S.C. § 5325(a)(1) (mandates secretarial amount for ISDEAA contracts), 25 U.S.C. § 5388(c) (mandates secretarial amount for ISDEAA compacts); *see also Becerra v. San Carlos Apache Tribe*, 2024 WL 2853107, *4, 8 (June 6, 2024) (602 U.S. --).

68 25 U.S.C. § 5325(a)(1).

The Secretary must also provide contract support costs in addition to the Secretarial amount.[69] Support costs fund "activities which must be carried on by a tribal organization as a contractor to ensure compliance with the terms of the contract" and which the Secretarial amount does not cover.[70] These funds reimburse tribal organizations for contract compliance expenses such as state-mandated unemployment taxes, workers compensation insurance, facility support costs, and overhead.[71] If not provided under the Secretarial amount, and if not exempted under state law, municipal taxes for staff housing would fall under this category.

Finally, ISDEAA requires the federal government to pay rent to tribal organizations for property the organizations own and use to execute ISDEAA contracts.[72] And the rental fees include "operation and maintenance expenses, and such other reasonable expenses the Secretary determines, by regulation, to be allowable."[73] If staff housing is part of an ISDEAA contract and the housing is owned by the tribal contractor, the federal government would be required to pay rental fees, including the associated operational costs, such as municipal taxes.

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69 25 U.S.C. § 5325(a)(2) (mandates contract support costs for ISDEAA contracts), (a)(3)(A) (same plus description of support costs), 5388(c) (mandates contract support costs for ISDEAA compacts).

70 25 U.S.C. § 5325(a)(2); *see also* § 5325(a)(3)(A), 5388(c).

71 *See San Carlos Apache Tribe*, 2024 WL 2853107, at *4–5, 8; *see also* Indian Health Service Manual, Chapter 3 - Contract Support Costs, Part 6-3.2.D.(1), *available at* https://www.ihs.gov/ihm/pc/part-6/p6c3/#6-3.2A (examples of direct support costs); 25 U.S.C. § 5304(c), (f) (defining direct and indirect costs).

72 25 U.S.C. § 5324(l).

73 *Id.*; 25 C.FR. § 900.70.

In short, if the staff housing is part of an ISDEAA contract (as the superior court found it was here), and if municipal taxes are not exempt under state law (because they are not considered a charitable or hospital purpose), the tribal contractor is statutorily entitled to funding for municipal taxes. Whereas in *Bracker* "the federal regulatory scheme [wa]s so pervasive as to preclude the additional burdens sought to be imposed,"[74] here the federal regulatory scheme is so thorough that it accounts for, authorizes, and requires federal funding of municipal taxes.

CONCLUSION

Nondiscriminatory state law applies outside Indian country absent Congress expressly saying otherwise. The implied federal preemption framework applies only in Indian country. If this Court disagrees and concludes that those rules do not apply in Alaska (and if this Court concludes that the municipal tax at issue here does not fall under the charitable or hospital purpose exemption), the Court should reverse the superior court's preemption conclusion because ISDEAA does not impliedly preempt this municipal tax.

[74] 448 U.S. at 148.