

# BUSINESS

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BUSINESS

## Divvying up taxes better than fighting

The people of Hendricks County are no more stupid, greedy nor ignorant than folks most places. Now they have a chance to prove that they are more intelligent, far-sighted and wise than most Hoosiers.

Let's set the scene.

If you don't know, Hendricks County lies directly west of Marion County. You can take U.S. 36 west from Indianapolis to Avon and Danville. Or you can go out Interstate 70, past the airport, to Plainfield.

Alternatively, I-74 will take you to Brownsburg, Pittsboro and Lizton. Located at the western end of the Indianapolis airport, Hendricks has become a warehousing mecca, which is a strange way to describe a place that is also home to a major national center for Islamic learning.

Hendricks County's population was the second-fastest growing in Indiana, behind Hamilton County, between 1990 and 2000. It held the same rank from 2000 to 2004.

Its residents had the second highest median household income in 2003 at \$61,475, 42 percent above the state average. In 2004, the county ranked 91st of the state's 92 counties in its unemployment rate.

On a typical day, the county sends nearly 40,000 workers out of the county to work (predominantly in Marion County) and sees 12,000 commuters enter the county for employment.

Of its people age 25 and older, 88.5 percent have at least a high school diploma, the second best standing in Indiana. It ranks seventh among the counties in terms of people with a bachelor's or higher college degree.

Now Hendricks County has an opportunity to do something truly different and exceptionally progressive. A new 882-acre industrial and warehousing complex has been announced for a section of unincorporated land between Avon and Plainfield.

Both communities have initiated efforts to annex the land and grab the property taxes it will generate.

Avon, with a population of 8,200, must feel like David going up against Goliath Plainfield with 22,600 persons. Avon is young, in that it was not incorporated until sometime in the 1990s, while Plainfield made its Census debut in 1910.

Does either community have a reason, other than greed, to annex this land? What about making this piece of land an example of property tax sharing in Indiana? Let all the communities of Hendricks County benefit from the taxes generated by the new buildings and the improvements on this land.

Certainly if Avon or Plainfield provides police or fire services to this property, then fees or taxes should be paid for those services. But none of the projected 6,000 employees is going to live on that land.

They will not necessarily live in Avon or Plainfield. Why should the Avon or Plainfield schools get the school property taxes? Let every school corporation in the county share in this windfall.

Actually, there is no reason to think that all or most of the employees will live in Hendricks County, but we'll not get into that complexity.

Revenue sharing is an idea that has been bounced around among economic developers for years. To date I am unaware of any place in the state where it has been achieved.

But it makes so much sense. Let's stop the competition among communities for new businesses and allow the benefits to flow over a wider area, just as the costs similarly may be spread.

This applies not only within counties, but between counties as well. Regional tax sharing makes sense. A new factory in one county may mean more students in a nearby county.

Without sounding like Huey Long, let us share the wealth.

Morton Marcus is an economist, formerly at the Kelley School of Business, Indiana University.

# Is end near in BlackBerry war?

## Patent battle threatens popular devices

### TIMELINE

2001

Nov. 13

NTP, formed by inventor Thomas Campana and attorney Don Stout, sues Research In Motion in federal court in Alexandria, Va., claiming patent infringement. The case is assigned to U.S. District Court in Richmond.

Nov. 21

A federal jury decides in favor of NTP and awards \$23.1 million in damages, based on 5.7 percent of RIM sales.

2003

May 23

U.S. District Judge James R. Spencer increases the royalty rate for NTP to 8.55 percent. Later, Spencer issues an injunction that would essentially shut down the U.S. BlackBerry operation but stays it pending appeals.

2004

June

Campana dies, but the suit continues.

Dec. 14

A U.S. appeals court sides mostly with the lower court.

2005

March 16

RIM announces that it has agreed to a \$450 million settlement. The deal later unravels.

Aug. 2

The appeals court reissues its previous opinion with changes, some favorable to RIM, but still largely sides with the lower court.

Sept. 28

The U.S. Patent and Trademark Office says preliminarily that it has rejected the final of eight NTP patents it is re-examining. Five of those patents are at the core of NTP's suit.

Oct. 21

The appeals court denies a motion to delay the case. Five days later, the U.S. Supreme Court does the same.

2006

Jan. 23

The Supreme Court refuses to hear an appeal from RIM.

Jan. 25

Spencer sets a Feb. 24 hearing date to consider the injunction.

By STEPHANIE STOUGHTON  
THE ASSOCIATED PRESS

RICHMOND, Va.

Say what you want about patent infringement suits, but at least the BlackBerry case has drama.

A federal judge, clearly impatient with the long-running case, could issue an injunction soon on U.S. sales and service of the wireless e-mail device.

Most patent suits are dismissed or settled long before they reach this stage. Remarkably, neither BlackBerry maker Research In Motion Ltd. nor tiny patent holder NTP Inc. has shown signs of backing down. In effect, they're daring each other to blink first and settle.

Governments, businesses and individual users are growing unnerved by the standoff. Although the odds of an actual shutdown are low, conflicting opinions about the possible outcomes and the spin from both sides have created a confusing picture.

James R. Spencer, a no-nonsense U.S. district judge widely respected in the legal community, now finds himself in the unusual position of weighing an injunction against RIM even as the U.S. Patent and Trademark Office is expected to finally rescind NTP's patents.

"These patents are ... guaranteed to go in the garbage," James Balsillie, co-chief executive of Canada's RIM, said in December. "At the end of the day, our position is real simple: Let the system work."

Unfortunately for Balsillie, the system doesn't necessarily work in a timely fashion. Spencer has signaled that he is unwilling to delay his proceedings while awaiting final word from the patent office, which lags far behind the court system.

A case that could change the practice of granting injunctions in patent cases, eBay Inc. v. MercExchange, will be taken up by the Supreme Court, but no decision is expected until the spring at the earliest.

Spencer, meanwhile, has scheduled a hearing for Friday on the

"At the end of the day, our position is real simple: Let the system work."

— James Balsillie,  
co-chief of Research in Motion,  
on a patent fight over  
BlackBerry devices

injunction and damages.

Because patent infringement cases don't often rise to this level of importance and even fewer make it this far in the courts, it's hard to tell how Spencer will rule.

An injunction he once issued on a sediment-control device, for instance, interested few people outside the construction industry. RIM v. NTP, on the other hand, could affect many of the more than 3 million BlackBerry users in the United States.

Government and emergency workers would be exempted from any BlackBerry blackout, but the Justice Department has asked Spencer to hold off on an injunction until the details can be sorted out.

If granted, that delay would also permit corporate and individual BlackBerry users to switch to other devices or to download new software that RIM claims would work around NTP's patents.

RIM executives say the new software will prevent any service disruptions, but they have released few details. Some analysts are questioning the viability of the workaround and whether it might inconvenience users or degrade service.

The unanswered questions in the case have led thousands of companies to contact consultants in recent weeks for advice on alternative technologies, though few have actually made the switch.



## Firms challenge IRS on long-distance taxes

By MARY DALRYMPLE  
THE ASSOCIATED PRESS

WASHINGTON

Businesses and individuals continue to pay hundreds of millions of dollars in taxes each year on some long-distance telephone calls even though three federal courts say the levy is invalid.

Companies have convinced the appeals courts that the 3 percent excise tax on local, long-distance and wireless calls does not apply to some current long-distance billing plans.

The tax dates to 1898, when telephones were a luxury and lawmakers needed money to help pay for the Spanish-American War.

The government can expect to collect \$52 billion over the coming decade from all telephone excise taxes, according to a recent report from the Congressional Budget Office.

The report said there is a "significant likelihood" the Internal Revenue Service will continue losing in court and eventually stop collecting the tax on some long-distance calls.

While cases work through the courts, the IRS says it still is instructing telephone companies to keep collecting the tax.

After losing in the 11th U.S. Circuit Court of Appeals, the IRS issued a notice stating it would continue to assess and collect the tax. After losing in the 6th Circuit, the IRS asked all judges on that court to hear the appeal. The IRS also lost in the U.S. Court of Appeals for the District of Columbia Circuit.

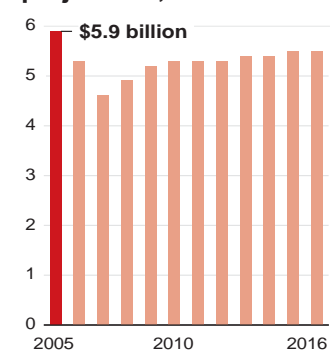
The agency has not asked the Supreme Court to consider the issue.

If the tax is terminated, the government could owe three years of

### Taking a toll

The IRS continues to charge tax on long-distance telephone services even though numerous courts, including three federal courts of appeal, have ruled these taxes invalid.

#### Telephone tax receipt projections, in billions



SOURCE: Congressional Budget Office AP

refunds to businesses and individuals who request them, the budget office said. The law gives them a three-year window of opportunity to claim a refund.

For most people, a 3 percent tax on long-distance calls amounts to very little. The average household telecommunications bill, including taxes, totaled \$114 a month in 2003, including \$16 for long-distance, according to a Federal Communications Commission report.

For businesses with high telephone usage or a toll-free line, the tax bill can be high. Companies have found it worth the time and expense to seek refunds in court.

"You've got to have an enormous amount of usage to make it worthwhile," said attorney Stephen Rosen, whose Washington telecommunications law firm has represented several companies pursuing refunds.

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