

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 Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

OKLAHOMA TAX COMMISSION *v.* SAC AND FOX NATION

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

No. 92-259. Argued March 23, 1993—Decided May 17, 1993

Respondent Sac and Fox Nation (Tribe) is a federally recognized Indian tribe located in Oklahoma. It brought this action seeking a permanent injunction barring petitioner Oklahoma Tax Commission (Commission) from, among other things, taxing the income of tribal members who work or reside within tribal jurisdiction, and imposing the State's motor vehicle excise tax and registration fees on tribal members who live and garage their cars principally on tribal land and register those cars with the Tribe. In large part, the Tribe based its claims of immunity from those state taxes on *McClanahan v. Arizona State Tax Comm'n*, 411 U. S. 164, in which the Court held that a State could not subject a tribal member living on the reservation, and whose income derived from reservation sources, to a state income tax absent an express authorization from Congress. The Commission responded that the State had complete taxing jurisdiction over the Tribe because *McClanahan* and the Court's other immunity cases applied only to tribes on established reservations, whereas the Tribe's 1891 Treaty with the Government disestablished the Sac and Fox Reservation in favor of allotments of trust land for individual tribal members. In affirming the District Court's rulings on cross-motions for summary judgment, the Court of Appeals held, among other things, that the income of tribal members who work for the Tribe was immune from state taxation under *McClanahan* and *Oklahoma Tax Comm'n v. Citizen Band Potawatomi Indian Tribe of Okla.*, 498 U. S. 505. In so ruling, the court rejected the Commission's contention that the tribal member's residence was relevant in addition to the status of the land on which the income was earned. The court also concluded that the State's vehicle taxes were flatly prohibited under *Moe v. Confederated*

Salish and Kootenai Tribes, 425 U. S. 463, and *Washington v. Confederated Tribes of Colville Indian Reservation*, 447 U. S. 134.

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Held: Absent explicit congressional direction to the contrary, it must be presumed that a State does not have jurisdiction to tax tribal members who live and work in Indian country, whether the particular territory consists of a formal or informal reservation, allotted lands, or dependent Indian communities. Pp. 8-13.

(a) The Court of Appeals erred to the extent that it did not determine the residence of the tribal members working for the Tribe. The residence of a tribal member is a significant component of the *McClanahan* presumption against state taxing authority. Contrary to the Commission's contention, that presumption applies not only to formal reservations, but also to all "Indian country." *Citizen Band Potawatomi Indian Tribe of Okla., supra*, at 511. Title 18 U. S. C. §1151 broadly defines the quoted phrase to include formal and informal reservations, dependent Indian communities, and Indian allotments, whether restricted or held in trust by the United States. If it is determined on remand that the relevant tribal members do live in Indian country, the Court of Appeals must analyze the relevant treaties and federal statutes against the backdrop of Indian sovereignty. Unless Congress expressly authorized state tax jurisdiction in Indian country, the *McClanahan* presumption counsels against finding such jurisdiction. Because all of the tribal members earning income from the Tribe may live within Indian country, this Court need not determine whether the Tribe's right to self-governance could operate independently of its territorial jurisdiction to pre-empt the State's ability to tax income earned from work performed for the Tribe itself when the employee does not reside in Indian country. See, e.g., *White Mountain Apache Tribe v. Bracker*, 448 U. S. 136, 142. Pp. 8-11.

(b) Oklahoma's vehicle excise tax and registration fees are no different than the state taxes the Court held pre-empted in *Colville* and *Moe*. The Commission's argument that neither of those cases applies because the Sac and Fox live on scattered allotments, rather than a reservation, fails for the same reasons it fails with regard to income taxes. Pp. 11-13.

(c) Because the Court of Appeals did not determine whether the tribal members on whom Oklahoma attempts to impose its income and motor vehicle taxes live in Indian country, its judgment must be vacated. P. 13.

967 F. 2d 1425, vacated and remanded.

O'CONNOR, J., delivered the opinion for a unanimous Court.