

State & Local Taxes

MULTISTATE TAXATION IN THE DIGITAL AGE

Wayne State University Law School
Fall 2007

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Chapter 1— Commerce Clause

Welcome to the Quagmire

Complete Auto Transit

430 U.S. 274 (1977), P. 1-19

- **Facts:** Mississippi imposed a tax on the gross receipts derived by Complete Auto from transporting motor vehicles within the state.
- **Issue:** Is this an invalid tax on interstate commerce under the Dormant Commerce Clause? See *Spector*.
- **Holding:** No. Tax is constitutional because (1) there is substantial nexus, (2) the tax is fairly apportioned, (3) it does not discriminate against interstate commerce, and (4) it fairly relates to services provided by the State.

Boston Stock Exchange

429 U.S. 318 (1977), P. 1-26 (BEFORE COMPLETE AUTO)

- **Facts:** New York amended its transfer tax on stock sales so that in-state sales by nonresidents get a 50% tax reduction, with a \$350 cap on the tax. Tax applies if any of 5 events occur in NY, including sale within NY and transfer or delivery within NY.
- **Issue:** Does the tax violate the Dormant Commerce Clause because it discriminates against interstate commerce?
- **Holding:** Yes. It provides an impermissible direct commercial advantage to local business.

Commonwealth Edison Co. v. Montana

453 U.S. 609 (1981), P. 1-51

- **Facts:** Montana imposes a severance tax on each ton of coal mined within the state, whether or not it is used within the state, at a rate up to 30% of contract sales price.
- **Issue:** Is the tax immune from Complete Auto analysis because the tax is imposed prior to its entry into commerce and, if not, does it violate the 4th prong?
- **Holding:** It is tested under Complete Auto, but it is okay under 4th prong ("fairly related") because the tax is linked to in-state activities (mining the coal).

Bacchus Imports

468 U.S. 263 (1984), P. 1-76

- **Facts:** Hawaii imposes a 20% wholesale excise tax on sales within the state, with an exemption for liquor made from okolehao (distilled from root of ti plant) and fruit wine (made from pineapples). Sales of the local hooch were under 1% of total liquor sales.
- **Issue:** Does the tax discriminate against interstate commerce by providing a direct commercial advantage to local business?
- **Holding:** Yes. Discriminates on its face.

New Energy Company

486 U.S. 269 (1988), P. 1-95.

- **Facts:** Ohio provides a tax credit against the Ohio gas tax for each gallon of ethanol (produced from corn) if the ethanol is produced in Ohio on in a state that gives a credit for ethanol produced in Ohio. New Energy produces ethanol in Indiana and does not qualify for the credit, but it does get a direct subsidy from Indiana.
- **Issue:** Does the Ohio credit discriminate against interstate commerce?
- **Holding:** Yes. Discriminates on its face. Reciprocity rule no help—can't threaten other states.

West Lynn Creamery

512 U.S. 186 (1994), P. 1-99.

- **Facts:** Massachusetts imposes an excise tax on all milk sold by dealers in the State. The tax is paid into an “equalization fund” and distributed monthly to MA milk producers. The rate is set so as to provide a minimum price for milk sales in MA (replacing a Federal price support system).
- **Issue:** Is the tax plus subsidy okay, given that the tax itself is fine and the subsidy itself is fine?
- **Holding:** No. The combined tax and subsidy interferes with interstate commerce.

Camps Newfoundland

520 U.S. 564 (1997), P. 1-120.

- **Facts:** Taxpayer is a Christian Science charity that operates a summer camp in Maine, mostly for out-of-state children. Maine imposes a property tax on the tp. The tax has an exemption for in-state charities and charities that mostly benefit in-state residents.
- **Issue:** Does the Maine law violate the Commerce Clause because its charitable exemption excludes charities mostly benefitting nonresidents?
- **Holding:** Yes. The camp, like a hotel, is a player in interstate commerce because it attracts nonresidents.

Cuno v. DaimlerChrysler

386 F. 3D 738 (2004), VACATED 126 S. CT. 2286 (2006), P. 1-145

- **Facts:** Daimler Chrysler received a 10-year 100% property tax exemption from Toledo and local school districts, plus a 13.5% credit against the State corporate income tax. Both were intended as incentives to get the tp to construct a new auto plant near its existing plant.
- **Issue:** Do the tax exemptions violate the Commerce Clause as discriminatory for favoring in-state business?
- **Holding:** Yes for credit, no for property tax, but vacated by Supreme Court on standing ground.