

SUPREME COURT OF WASHINGTON

Flight Options, LLC v. State of Washington, Department of Revenue

259 P.3d 234 (Wash. 2011) · No. No. 84207-8 · Decided August 25, 2011

SUMMARY

The Supreme Court of Washington held that the Department of Revenue could impose an apportioned property tax on Flight Options' fleet of aircraft. The court concluded that the aircraft acquired a Washington tax situs through habitual use of the state's airspace, landing facilities, and related services, even without fixed routes or regular schedules. It also held that chapter 84.12 RCW authorized assessment against Flight Options as an airplane company that managed aircraft, including aircraft it did not wholly own.

CASE DETAILS

COURT	Supreme Court of Washington
WRITING FOR THE COURT	Owens, J.; Barbara A. Madsen, C.J.; Charles W. Johnson, J.; Gerry L. Alexander, J.; Tom Chambers, J.; Mary E. Fairhurst, J.; James M. Johnson, J.; Debra L. Stephens, J.; Charles K. Wiggins, J.
JURISDICTION	Washington
DECIDED	August 25, 2011
DOCKET	No. 84207-8
DISPOSITION	affirmed
PROCEDURAL POSTURE	Flight Options brought a declaratory judgment action challenging Washington Department of Revenue apportioned property-tax assessments against its aircraft fleet. The superior court granted the Department summary judgment, the Court of Appeals affirmed, and the Washington Supreme Court granted review.
STANDARD OF REVIEW	De novo review applies to constitutional and statutory interpretation issues and review of a summary judgment order.
PRECEDENTIAL VALUE	Published Washington Supreme Court en banc opinion; precedential
PARTIES	Flight Options, LLC v. State of Washington, Department of Revenue

TOPICS

property tax

state and local tax

due process

dormant commerce clause

statutory interpretation

PRACTICE AREAS

state and local taxation

constitutional law

administrative law

statutory interpretation

property taxation

QUESTIONS PRESENTED

1. Whether the Due Process Clause requires fixed routes and regular schedules for airplanes or other instrumentalities of interstate commerce to acquire a taxable situs in Washington.
2. Whether chapter 84.12 RCW authorizes the Department of Revenue to impose apportioned property taxes on Flight Options's managed aircraft, including when Flight Options is not the sole owner of the aircraft.

HOLDINGS

1. Fixed routes and regular schedules are sufficient but not necessary to establish a tax situs for instrumentalities of interstate commerce. Airplanes that habitually enter Washington may acquire a Washington tax situs even when they operate without fixed routes or regular schedules, and Flight Options's average of approximately two visits to Washington per day was sufficient.
2. Chapter 84.12 RCW authorizes the Department to assess apportioned property taxes against Flight Options because it is an airplane company that manages aircraft used to transport persons for compensation, the aircraft are situated in Washington through their constitutionally sufficient tax situs, and the specific operating-property provisions permit assessment against a nonowner that controls, operates, or manages the property.

KEY QUOTATIONS

"In sum, we hold that a state may impose an apportioned property tax on airplanes habitually entering the state, even where those airplanes do not operate over fixed routes or on regular schedules. We further hold that an average of two visits to the state each day is sufficiently habitual to establish a tax situs." (259 P.3d at 240-241)

"We conclude that the Department properly assessed Flight Options an apportioned property tax based on the value of the fleet of airplanes it manages." (259 P.3d at 243)

FACTUAL BACKGROUND

Flight Options, an Ohio limited liability company, purchased and managed approximately 200 private aircraft used in charter and fractional-ownership programs. Its aircraft made 1,397 landings or takeoffs in Washington in 2004 and 700 landings in 2005, while Flight Options retained possession, maintenance, insurance, operational control, and dispatch authority over the fleet. The Department calculated apportioned property taxes by multiplying the fleet's total value by the percentage of the fleet's Washington takeoffs and landings, and assessed the taxes against Flight Options.

PROCEDURAL HISTORY

The Department assessed apportioned property taxes against Flight Options in 2005 and again the following year after notifying it that an annual return was required. Flight Options filed a declaratory judgment action and

amended it to challenge both assessments. On cross-motions for summary judgment, the superior court ruled for the Department; the Court of Appeals affirmed, and the Supreme Court affirmed the Court of Appeals.

DISPOSITION

affirmed

CASES CITED

- Lamtec Corp. v. Department of Revenue, 170 Wash. 2d 838, 842, 246 P.3d 788 (2011)
- Optimer International, Inc. v. RP Bellevue, LLC, 170 Wash. 2d 768, 771, 246 P.3d 785 (2011)
- Frick v. Pennsylvania, 268 U.S. 473, 496 (1925)
- Central Railroad Co. of Pennsylvania v. Pennsylvania, 370 U.S. 607, 613-15 (1962)
- Braniff Airways, Inc. v. Nebraska State Board of Equalization & Assessment, 347 U.S. 590, 599-601 (1954)
- Ott v. Mississippi Valley Barge Line Co., 336 U.S. 169, 170, 173-74 (1949)
- Marye v. Baltimore & Ohio Railroad Co., 127 U.S. 117, 123 (1888)
- Alaska Airlines, Inc. v. Department of Revenue, 307 Or. 406, 411-12, 769 P.2d 193 (1989)
- American Refrigerator Transit Co. v. Hall, 174 U.S. 70, 71-72, 81-82 (1899)
- Johnson Oil Refining Co. v. Oklahoma ex rel. Mitchell, 290 U.S. 158, 161 (1933)
- Quill Corp. v. North Dakota ex rel. Tax Commissioner, 504 U.S. 298, 306, 312-13 & n.7 (1992)
- Miller Bros. Co. v. Maryland, 347 U.S. 340, 344-45 (1954)
- Smoot Sand & Gravel Corp. v. District of Columbia, 84 U.S. App. D.C. 367, 174 F.2d 505, 505-06 (1949)
- Trinova Corp. v. Michigan Department of Treasury, 498 U.S. 358, 373 (1991)
- Complete Auto Transit, Inc. v. Brady, 430 U.S. 274, 279 (1977)
- Fall Creek Construction Co. v. Director of Revenue, 109 S.W.3d 165, 171 (Mo. 2003)
- State v. J.P., 149 Wash. 2d 444, 450, 69 P.3d 318 (2003)
- Department of Ecology v. Campbell & Gwinn, LLC, 146 Wash. 2d 1, 11, 43 P.3d 4 (2002)
- Burton v. Lehman, 153 Wash. 2d 416, 423, 103 P.3d 1230 (2005)
- Vita Food Products, Inc. v. State, 91 Wash. 2d 132, 134, 587 P.2d 535 (1978)
- Mesa Leasing Ltd. v. City of Burlington, 169 Vt. 93, 96, 730 A.2d 1102 (1999)
- Canadian Pacific Railway Co. v. King County, 90 Wash. 38, 43-44, 155 P. 416 (1916)
- United States Whaling Co. v. King County, 96 Wash. 434, 436-37, 165 P. 70 (1917)
- Guinness v. King County, 32 Wash. 2d 503, 506, 202 P.2d 737 (1949)
- Japan Line, Ltd. v. County of Los Angeles, 441 U.S. 434, 442-43, 99 S. Ct. 1813, 60 L. Ed. 2d 336 (1979)
- Alaska Freight Lines, Inc. v. King County, 66 Wash. 2d 360, 363-64, 402 P.2d 670 (1965)
- Residents Opposed to Kittitas Turbines v. Energy Facility Site Evaluation Council, 165 Wash. 2d 275, 309, 197 P.3d 1153 (2008)

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