

SUPREME COURT OF THE STATE OF ALASKA

Tesoro Corporation and Subsidiaries v. State of Alaska, Department of Revenue

312 P.3d 1230 (Alaska 2013) · No. S-14326 · Decided October 25, 2013

SUMMARY

The Alaska Supreme Court affirmed a superior court decision upholding income tax assessments and penalties imposed by the Alaska Department of Revenue against Tesoro Corporation and its subsidiaries for tax years 1994 through 1998. The court held that Tesoro operated as a single unitary business subject to formula apportionment and rejected its constitutional challenge to taxing income from its non-Alaskan subsidiaries. The court also concluded that the remedial apportionment formula was reasonable and that the penalties were permissible.

CASE DETAILS

COURT	Supreme Court of the State of Alaska
WRITING FOR THE COURT	Eastaugh, Senior Justice; Fabe, Chief Justice; Carpeneti, Justice; Winfree, Justice; Stowers, Justice
JURISDICTION	Alaska
DECIDED	October 25, 2013
DOCKET	S-14326
DISPOSITION	affirmed
PROCEDURAL POSTURE	Tesoro appealed Alaska income-tax assessments, interest, and penalties through informal Department of Revenue proceedings, an administrative-law-judge hearing, and the superior court. The superior court affirmed the administrative law judge's decision, and Tesoro appealed to the Alaska Supreme Court.
STANDARD OF REVIEW	Questions of law, constitutional issues, and statutory interpretation are reviewed de novo under the independent-judgment standard. Disputed factual findings in administrative decisions are reviewed for substantial evidence, without reweighing evidence or reevaluating credibility determinations. Whether a taxpayer's business is unitary is reviewed de novo, with only some weight given to the agency's decision.
PRECEDENTIAL VALUE	published precedential opinion

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QUESTIONS PRESENTED

1. Whether Tesoro's subsidiaries constituted a single unitary business subject to formula apportionment under the Due Process and Interstate Commerce Clauses.
2. Whether Tesoro had standing to challenge the internal consistency of Alaska's two-formula apportionment scheme.
3. Whether the Department of Revenue's remedial property, sales, and extraction formula was reasonable as applied to Tesoro under AS 43.19.010, article IV, section 18.
4. Whether the Department of Revenue permissibly imposed failure-to-pay and negligence penalties on Tesoro.

HOLDINGS

1. Tesoro and its subsidiaries constituted a single unitary business because the record showed functional integration, centralized management, and economies of scale sufficient to establish flows of value among the business segments.
2. Tesoro lacked standing to challenge the internal consistency of Alaska's apportionment scheme because it failed to show that the alleged inconsistency caused it an actual adverse injury.
3. The Department of Revenue's use of the property, sales, and extraction formula was reasonable as applied to Tesoro and satisfied AS 43.19.010, article IV, section 18(c).
4. The Department of Revenue permissibly imposed failure-to-pay and negligence penalties because the penalties were based on Tesoro's repeated failure to recognize the unitary relationship between its Alaska refinery and pipeline operations, not merely on its challenge to the constitutionality of the apportionment formula.

KEY QUOTATIONS

“Under the Due Process and Interstate Commerce Clauses of the United States Constitution, a state “may not tax value earned outside its borders.”” (at 11)

“For these reasons, we hold that Tesoro was a single unitary business throughout the relevant period.” (at 21)

“Because Tesoro has not demonstrated that it has suffered any harm as a result of the alleged internal inconsistency, it has failed to establish its standing in this case.” (at 29)

“DOR permissibly assessed the penalties.” (at 38)

“For these reasons, we AFFIRM the superior court’s decision that affirmed the administrative law judge’s award of taxes, interest, and penalties.” (at 39)

FACTUAL BACKGROUND

Tesoro Corporation was a Texas-headquartered petroleum company with subsidiaries organized into exploration and production, retail and marketing, marine services, corporate, and finance segments. Tesoro's board actively directed subsidiary financial and operational decisions, while corporate departments provided centralized financing, accounting, legal, human-resources, risk-management, and other services. After Tesoro purchased the Kenai Pipeline in 1995, it claimed that the pipeline, finance segment, and other subsidiaries were not part of the same unitary business and sought to limit Alaska taxation to selected operations. The Department of Revenue rejected that position, applied Alaska's apportionment formulas to Tesoro's unitary business, and imposed penalties for Tesoro's repeated failure to treat the Kenai Pipeline and related operations as unitary.

PROCEDURAL HISTORY

The Department of Revenue assessed Tesoro for tax years 1994 through 1998 using formula apportionment of the income of Tesoro's worldwide unitary business and imposed failure-to-pay and negligence penalties. After a ten-day administrative hearing, the administrative law judge found that Tesoro and its subsidiaries constituted one unitary business, that the three-factor apportionment formula was constitutionally and statutorily reasonable, and that penalties were permissible. The superior court affirmed, and the Alaska Supreme Court affirmed the superior court's decision.

DISPOSITION

affirmed

CASES CITED

- Ross v. State, Dep't of Revenue, 292 P.3d 906 (Alaska 2012)
- Harrod v. State, Dep't of Revenue, 255 P.3d 991 (Alaska 2011)
- State, Dep't of Revenue v. DynCorp & Subsidiaries, 14 P.3d 981 (Alaska 2000)
- McKittrick v. State, Pub. Emps. Ret. Sys., 284 P.3d 832 (Alaska 2012)
- Lindhag v. State, Dep't of Natural Res., 123 P.3d 948 (Alaska 2005)
- Earth Res. Co. of Alaska v. State, Dep't of Revenue, 665 P.2d 960 (Alaska 1983)
- Alaska Gold Co. v. State, Dep't of Revenue, 754 P.2d 247 (Alaska 1988)
- ASARCO Inc. v. Idaho State Tax Comm'n, 458 U.S. 307 (1982)
- Wisconsin v. J.C. Penney Co., 311 U.S. 435 (1940)
- Container Corp. of Am. v. Franchise Tax Bd., 463 U.S. 159 (1983)
- Mobil Oil Corp. v. Comm'r of Taxes, 445 U.S. 425 (1980)
- F. W. Woolworth Co. v. Taxation & Revenue Dep't of New Mexico, 458 U.S. 354 (1982)

- Okla. Tax Comm'n v. Jefferson Lines, Inc., 514 U.S. 175 (1995)
- Armco Inc. v. Hardesty, 467 U.S. 638 (1984)
- Friends of Willow Lake, Inc. v. State, 280 P.3d 542 (Alaska 2012)
- Law Project for Psychiatric Rights, Inc. v. State, 239 P.3d 1252 (Alaska 2010)
- Keller v. French, 205 P.3d 299 (Alaska 2009)
- McGraw v. Cox, 285 P.3d 276 (Alaska 2012)
- In re Alt. Minimum Tax Refund Cases, 546 N.W.2d 285 (Minn. 1996)
- Microsoft Corp. v. Franchise Tax Bd., 139 P.3d 1169 (Cal. 2006)
- Gulf Oil Corp. v. State, Dep't of Revenue, 755 P.2d 372 (Alaska 1988)
- Trinova Corp. v. Mich. Dep't of Treasury, 498 U.S. 358 (1991)
- Butler Bros. v. McColgan, 315 U.S. 501 (1942)
- McKesson Corp. v. Div. of Alcoholic Beverages & Tobacco, 496 U.S. 18 (1990)

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