APPELLATE COURT OF ILLINOIS, FOURTH DISTRICT

United States Liability Insurance Co. v. Department of Insurance

2014 IL App (4th) 121125 · No. 4-12-1125 · Decided August 20, 2014

SUMMARY

The Illinois Appellate Court held that the retaliatory tax statute unambiguously requires the income-tax component to be based on income taxes accrued under section 201(a) through (d) of the Illinois Income Tax Act, rather than taxes paid. It affirmed the circuit court's determination that the Department of Insurance regulation requiring refunds to be accounted for on a cash basis conflicted with the statute and was invalid. The plaintiffs were therefore entitled to apply an approximately $8.6 million income-tax refund to the years in which the overpayments occurred.

CASE DETAILS

COURT	Appellate Court of Illinois, Fourth District
WRITING FOR THE COURT	Justice Holder White; Presiding Justice Appleton; Justice Steigmann
JURISDICTION	Illinois
DECIDED	August 20, 2014
DOCKET	4-12-1125
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a circuit-court judgment reversing an administrative decision of the Illinois Department of Insurance concerning the calculation of retaliatory taxes.
STANDARD OF REVIEW	Questions of statutory interpretation are reviewed de novo. The validity of an administrative regulation inconsistent with the governing statute is reviewed as a question of law.
PRECEDENTIAL VALUE	precedential
PARTIES	The Department of Insurance, Michael T. McRaith, as Director of the Department of Insurance v. United States Liability Insurance Company, National Indemnity Company, National Liability & Fire Insurance Company, Central States Indemnity Company of Omaha, Kansas Bankers Surety Company, Government Employees Insurance Company, GEICO General Insurance Company, GEICO Indemnity Company, GEICO Casualty Company, General Reinsurance Corporation, General Star National Insurance Company, Genesis

Insurance Company, Fairfield Insurance Company, National Reinsurance Corporation, North Star Reinsurance Corporation

TOPICS

insurance · state and local tax · statutory interpretation · judicial review of agency action · appellate procedure

PRACTICE AREAS

insurance taxation · administrative law · statutory interpretation · appellate procedure

QUESTIONS PRESENTED

1. Whether section 444(3) of the Illinois Insurance Code unambiguously requires the income-tax component of the retaliatory tax to be based on income taxes imposed or accrued under section 201(a) through (d) of the Illinois Income Tax Act rather than income taxes paid on a cash basis.
2. Whether Title 50, section 2515.50(b)(5), of the Illinois Administrative Code is invalid because it requires income-tax refunds to be accounted for on a cash basis and therefore conflicts with the retaliatory-tax statute.

HOLDINGS

1. Section 444(3) of the Illinois Insurance Code unambiguously provides that the income-tax component of the Illinois retaliatory tax is the corporate income tax that accrued or was imposed under section 201(a) through (d) of the Illinois Income Tax Act during the relevant year, not the income tax actually paid.
2. Title 50, section 2515.50(b)(5), of the Illinois Administrative Code is invalid because its requirement that the Illinois basis include income taxes paid conflicts with the statute's requirement that the retaliatory tax include corporate income taxes imposed or accrued in the relevant year.

KEY QUOTATIONS

> *"Based on the foregoing, we conclude the retaliatory tax statute unambiguously specifies that the income-tax component of the retaliatory tax is the income tax that accrued under section 201(a) through (d) of the Income Tax Act, not the income tax paid."* (¶ 37)

> *"Because this language conflicts with the statute's mandate that the retaliatory tax includes the corporate income tax imposed in a particular year, we conclude Title 50, section 2515.50(b), of the Illinois Administrative Code is invalid."* (¶ 39)

FACTUAL BACKGROUND

The plaintiff insurers, domiciled outside Illinois but doing business in Illinois, received an approximately $8.6 million refund in 2004 for overpaid Illinois income taxes from 1999, 2000, and 2001. They applied the refund to the years in which the overpayments occurred when calculating their Illinois retaliatory tax, while the Department required the refund to be applied against 2004 income on a cash basis. The dispute turned on whether the retaliatory-tax statute measured the income-tax component by taxes imposed or accrued during the relevant year, or by taxes actually paid or refunded during that year.

PROCEDURAL HISTORY

The Department's director adopted a hearing officer's recommendation that the insurers' approximately $8.6 million income-tax refund be accounted for on a cash basis in the year received. The insurers sought administrative review in the Sangamon County circuit court, which held the Department's regulation invalid because it conflicted with the retaliatory-tax statute and entered judgment for the insurers. The Department appealed.

DISPOSITION

affirmed

CASES CITED

- Mutual Life Insurance Co. of New York v. Washburn, 137 Ill. 2d 312, 330, 561 N.E.2d 29, 37-38 (1990)
- People ex rel. Madigan v. Illinois Commerce Comm’n, 231 Ill. 2d 370, 380, 899 N.E.2d 227, 232 (2008)
- Solon v. Midwest Medical Records Ass’n, 236 Ill. 2d 433, 440, 925 N.E.2d 1113, 1117 (2010)
- Illinois Bell Telephone Co. v. Illinois Commerce Comm’n, 362 Ill. App. 3d 652, 657, 840 N.E.2d 704, 709 (2005)
- Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837, 843 (1984)
- Lewyt Corp. v. Commissioner of Internal Revenue, 349 U.S. 237, 240 (1955)
- Coram v. State of Illinois, 2013 IL 113867, ¶ 57, 996 N.E.2d 1057
- Metropolitan Life Insurance Co. v. Boys, 296 Ill. 166, 172, 129 N.E. 724, 726 (1920)
- Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, ¶ 38, 998 N.E.2d 1227