

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

JONATHAN D. AND AMANDA A. EILIAN,

Respondents

v.

DIRECTOR OF REVENUE.

Appellant

DOCKET NUMBER WD74900

DATE: January 15, 2013

Appeal From:

ADMINISTRATIVE HEARING COMMISSION

Appellate Judges:

Division Four

James Edward Welsh, C.J., Mark D. Pfeiffer, J., and Abe Shafer, Sp. J.

Attorneys:

Jeremiah Morgan, Jefferson City, MO

Counsel for Appellant

Attorneys:

James Lowry, Jefferson City, MO

Counsel for Respondents

**MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

**JONATHAN D. AND AMANDA A. EILIAN, Respondents,
v. DIRECTOR OF REVENUE, Appellant**

WD74900

Administrative Hearing Commission

Before Division Four Judges: Welsh, C.J., Pfeiffer, J., and Shafer, Sp. J.

The Director of Revenue (Director) appeals from the Administrative Hearing Commission's (AHC) decision that Jonathan D. and Amanda A. Eilian were not liable for a deficiency on their 2006 Missouri income taxes. The Director asserts that the Eilians inappropriately utilized the net operating loss deduction on their 2006 Missouri tax return, resulting in their receiving an impermissible double benefit.

Transferred to the Missouri Supreme Court

Division Four holds:

The issue, therefore, before this court, calls for the construction of section 143.121, RSMo Supp. 2007, to determine whether the Eilians inappropriately utilized the net operating loss deduction on their 2006 Missouri tax return, resulting in their receiving an impermissible double benefit. The issue necessarily involves the construction of a state revenue law, and such issues fall within the exclusive jurisdiction of the Missouri Supreme Court. Because the Supreme Court has exclusive jurisdiction over the matter, we transfer the case to the Missouri Supreme Court pursuant to Article V, Section 3 of the Missouri Constitution.

Opinion by James Edward Welsh, Chief Judge

January 15, 2013

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