Summary of:

SC89080, ***Insurance Company of the State of PA v. Director of Revenue and Director of Insurance, Financial Institutions & Professional Registration,*** **consolidated with**

SC89081, ***Illinois National Insurance Company v. Director of Revenue and Director of Insurance, Financial Institutions & Professional Registration,*** **consolidated with**

SC89082, ***American International South Insurance Company v. Director of Revenue and Director of Insurance, Financial Institutions & Professional Registration,*** **consolidated with**

SC89106, ***American Home Assurance v. Director of Revenue and Director of Insurance, Financial Institutions & Professional Registration,*** **consolidated with**

SC89107, ***Granite State Insurance Group v. Director of Revenue and Director of Insurance, Financial Institutions & Professional Registration,*** **consolidated with**

SC89108, ***New Hampshire Insurance Company v. Director of Revenue and Director of Insurance, Financial Institutions & Professional Registration,*** **consolidated with**

SC89109, ***National Union Fire Insurance Co. of Pittsburgh, PA v. Director of Revenue and Director of Insurance, Financial Institutions & Professional Registration,*** **consolidated with**

SC89110, ***AIU Insurance Company v. Director of Revenue and Director of Insurance, Financial Institutions & Professional Registration***

Petition for review of decisions of the Administrative Hearing Commission.

Attorneys: The insurance companies were represented by Marc H. Ellinger, James B. Deutsch and Jane A. Smith. The director of revenue and director of insurance were represented by James R. Layton, Mark W. Stahlhuth and Jan Hemme Pritchard.

This summary is not part of the opinion of the Court. It has been prepared by the Communications Counsel for the convenience of the reader. It has been neither reviewed nor approved by the Supreme Court and should not be quoted or cited.

Overview: Insurance companies appeal the administrative hearing commission's denial of their tax refund requests. In a 7-0 decision written by Judge Mary R. Russell, the Supreme Court of Missouri affirms the commission's decision. Their requests were not filed on time because there is no statutory provision allowing the deadline – which here fell on a Saturday – to be extended to the following Monday. Instead, the requests were due the previous business day.

Facts: Section 148.340, RSMo 2000, requires insurers to pay a tax on the insurance premiums they collect in Missouri. Eight out-of-state insurance companies that do business in Missouri sought refunds of taxes they believe they overpaid for the 2004 tax year. Their refund requests were postmarked Friday, June 1, 2007, but were not received until the director of revenue's office again opened for business on Monday, June 4. The director applied section 136.035, RSMo Supp. 2007, to calculate the deadline for the insurers' refund claims and determined the requests were filed untimely because they had been due on or before June 2 but were not received until June 4. The insurers sought review from the administrative commission, which affirmed the director's denials of the refund requests. The insurers appeal.

AFFIRMED.

Court en banc holds: (1) The commission properly determined that the insurers' refund requests were not filed timely because, when the refund request deadline under section 136.035.3 falls on a Saturday, the *de facto* deadline for filings is the preceding business day. Despite the insurers' arguments, section 148.076.1 – by its plain language – is limited to refunds of overpayments of taxes imposed on banking institutions, not insurance companies. Accordingly, the commission properly applied the general refund statute, section 136.035, which gives a taxpayer two years from the date taxes are paid to claim a refund of those taxes. For three of the insurance companies, there is no dispute that the deadline for refund claims was June 2, 2007. Although there is a dispute as to the calculation of the refund request deadlines for the other five insurers, this Court need not decide it, for even if this Court applies the June 2, 2007, date they request, their requests were untimely filed. In 2007, June 2 fell on a Saturday. Tax refund laws, however, must be construed strictly against the taxpayer. Section 135.035 does not mandate that its refund request deadline be extended in such a circumstance; the legislature has not created a "mailbox rule" (in which, for example, the document is deemed filed on the date it was sent by registered or certified mail) or other general exception for statutory deadlines that fall on a Saturday; and there is no statute requiring the director of revenue to accept section 136.035 filings for which a physical delivery is attempted on a Saturday. *Evergreen Lawn Service, Inc. v. Director of Revenue*, 685 S.W.2d 829 (Mo. banc 1985), also does not apply here, as that decision pertained to the statutory time limitation on appeals to the commission, not on refund requests lodged with the director of revenue. Unlike provisions governing the right to appeal, tax refund provisions are strictly construed *against* the taxpayer.