

Summary of SC89568, Jay Wolfe Imports Missouri, Inc. v. Director of Revenue
Petition for review of an administrative hearing commission decision, Commissioner
John J. Kopp

Attorneys: Jay Wolfe was represented by Bruce C. Davison of Sonnenschein Nath & Rosenthal LLP in Kansas City, (816) 460-2400; and the director was represented by State Solicitor James R. Layton of the attorney general's office in Jefferson City, (573) 751-3321.

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 neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.

Overview: An automobile dealership appeals a decision finding that all of its sales – including those to non-Missouri residents – should be classified as occurring wholly within Missouri for purposes of calculating its Missouri corporate income tax. In a unanimous decision written by Judge Mary R. Russell, the Supreme Court of Missouri affirms the determination that the dealership's income derives from sources entirely in Missouri. The fact that some customers may purchase vehicles and then take them to their out-of-state addresses does not mean that the sales themselves are conducted partly within and partly without this state; rather, the entire sales are completed in Missouri, and the dealership must pay Missouri income tax on the sales.

Facts: Jay Wolfe Imports Missouri Inc. sells automobiles exclusively in Kansas City, Missouri, although some of its customers live in Kansas. Because its customers live in more than one state, Jay Wolfe used a method of computing its income subject to Missouri corporate income tax that considered its sales to non-Missouri customers as sales conducted “partly within this state and partly without this state,” as defined in section 143.451.2(3)(b), RSMo 2000. After auditing Jay Wolfe's tax returns for 2002, 2003 and 2004, the director of revenue determined that all the dealership's vehicle sales – including those to non-Missouri residents – should be classified as occurring wholly within Missouri for purposes of calculating its corporate income tax. On review, the administrative hearing commission agreed with the director. Jay Wolfe appeals.

AFFIRMED.

Court en banc holds: (1) The commission did not err in making a threshold determination of whether Jay Wolfe was eligible to apportion its income. Under the “source of income” analysis the commission used – long the method by which Missouri has construed its corporate taxation scheme – income produced outside Missouri is not subject to Missouri taxation, allowing a corporation to apportion its taxable income only where it can show it had income from outside Missouri. Before a corporation can use the “single-factor method of apportionment” under section 143.451.2(3)(b), however, it must

have a source of income outside Missouri because section 143.451.1, RSMo 2000, instructs that taxable income is that income “derived from sources within this state.”

(2) The commission properly found that Jay Wolfe was not entitled to apportion its income under section 143.451.2(3)(b). This statute provides that sales “partly within ... and partly without this state” occur only if the seller’s shipping point and the purchaser’s destination point are in different states. This section does not apply to Jay Wolfe’s sales of automobiles because there is no “shipping point” to apply. It does not “ship” vehicles purchased at its Missouri dealership to out-of-state customers; rather, such customers complete their sales transactions and take possession of their purchased vehicles in Missouri and then may drive their vehicles to their out-of-state addresses. As such, the commission properly concluded that Jay Wolfe’s income was “derived from sources within” Missouri.