

Summary of SC90172, *Western Blue Print Co. v. Director of Revenue*

Petition to review an administrative hearing commission decision, Commissioner John J. Kopp
Argued and submitted Jan. 13, 2010; opinion issued April 20, 2010

Attorneys: The director was represented by Solicitor General James R. Layton of the attorney general's office in Jefferson City, (573) 751-3321, and Western Blue Print was represented by William E. Quirk, Thomas W. Gray and Anthony W. Bonuchi of Polsinelli Shughart P.C. in Kansas City, (816) 421-3355.

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: The director of revenue appeals an administrative hearing commission decision finding that a company's services were not taxable and that its sales of CDs were exempt from taxation. In a unanimous decision written by Chief Justice William Ray Price Jr., the Supreme Court of Missouri affirms the commission's decision. The company's customers were purchasing its services of converting printed documents into electronic format, not the CDs themselves, which were merely the medium of transmission incidental to the purchase of services.

Facts: Western Blue Print Co. is a Kansas City-based printing and copying company that scans images of its customers' documents onto CDs and returns the original documents and the CDs to the customers, keeping copies of the CDs for most customers. It charges its customers a fee-per-page for the scanning services and an additional \$15 for each CD it distributes. Additional services it may provide include indexing CD contents into folders, converting the scanned documents into PDFs, or labeling the documents to facilitate search functions in Acrobat Reader or Internet Explorer. In February 2006, the director of revenue audited Western Blue Print's sales, use and withholding tax records for the previous three years. At the audit's conclusion, the director assessed Western Blue Print more than \$414,400 in unpaid sales tax and interest for CDs Western Blue Print sold its customers. In January 2007, Western Blue Print sought review of the director's assessment from the administrative hearing commission, which ruled in the company's favor. The director appeals.

AFFIRMED.

Court en banc holds: Because the "true object" of Western Blue Print's business was the conversion of the paper documents into electronic format and not the sale of CDs, the CDs it provided its customers were merely incidental to a non-taxable service. Section 144.020.1(1), RSMo 2000, imposes a sales tax on "every retail sale in this state of tangible personal property." Section 144.020.1(10), RSMo 2000, defines a retail sale is "any transfer made ... of the ownership of, or title to, tangible personal property to the purchaser." Over the past 20 years, this Court has developed a "true object" test, when a transaction involves both non-taxable services and taxable retail sales, to determine the real object the buyer seeks. The case here is controlled by *James v. TRES Computer Systems, Inc.*, 642 S.W.2d 347, 349 (Mo. 1982), and *K&A Litho Process, Inc. v. Director of Revenue*, 653 S.W.2d 195, 196 (Mo. 1983). The true object of Western Blue Print's business is the conversion of paper documents into electronic format, a

non-taxable service under settled Missouri law. Similar to the magnetic tapes used in *TRES*, the CDs Western Blue Print used to transfer the data to its customers were merely the medium of transmission. And, as in *K&A Litho*, the CDs were only a segment of a larger production operation. Western Blue Print's transactions are distinguishable from those in *Gammaitoni v. Director of Revenue*, 786 S.W.2d 126 (Mo. 1990) (where the services of manufacturing videotapes were incidental to the sale of the videotapes themselves), and *Universal Images v. Director of Revenue*, 608 S.W.2d 417 (Mo. 1980) (where Universal's customers were purchasing short advertisement films that movie theaters ran as previews, which were finished products). Here, Western Blue Print's CDs were not finished products but the medium of transmission incidental to the purchase of electronic conversion services.