

Business and occupation tax upheld

OLYMPIA (AP) — Washington's Supreme Court on Thursday rejected a challenge to the state business and occupation tax, but state officials said they can't replace until the U.S. Supreme Court agrees.

At stake is between \$452 million and \$500 million in revenue, and Gov. Brock Gardner and state Revenue Director Matt Cople said they will prepare contingency plans for use if the state should lose an appeal.

The state court unanimously upheld the constitutionality of the state excise tax on business gross income challenged by hundreds of corporations. It was based on a 1984 ruling by the U.S. Supreme Court throwing out a similar West Virginia case.

The state's tax as applied does not constitute a discriminatory tax on interstate and out-of-state businesses, the court held.

Both sides had previously indicated that the matter was the outcome here, the case would almost certainly wind up in the U.S. Supreme Court.

The governor and state revenue director said they were pleased with the ruling, but that they were breathing a sigh of relief until the nation's highest court agrees.

"We expected to win the case before the state Supreme Court, but it will likely be a more difficult argument before the U.S. Supreme Court."

"We have every right to be cautiously optimistic and hope for the best, but we also have to expect the worst," he said.

Cople said if the court takes the case, a decision likely would be handed down next spring. All of the principal arguments in the suit and the Association of Washington Business declined comment pending review of the decision.

The U.S. Supreme Court has the option of hearing the case directly, bypassing the U.S. 9th Circuit Court of Appeals.

The state court ruled in two companion cases originating in Thurston County Superior Court and raising slightly different, but related issues.

In the major challenge, based on the West Virginia case, 13 businesses, including some of the state's and nation's largest, brought suit in a consolidated case. More than 50 other actions are pending in the lower court awaiting the outcome.

In the consolidated case, three companies were picked to represent the major types of businesses affected by the case. They are Kalama Chemical Inc., which manufactures in the state and sells outside; Shreve Corporation, which manufactures outside the state and sells within; and National Car Corporation, which does both.

The other, separate case involved a challenge by Tyler Pipe Industries Inc. of Texas, which contended that since its activities in Washington were conducted by independent agents, the tax could not be applied to it.

In the West Virginia case, the nation's highest court held that the state's gross business tax scheme violated the U.S. constitutional commerce clause by exempting local manufacturer-

ers who sold within the state while requiring out-of-state manufacturers to pay the similar gross tax on wholesaling activities on in-state sales. In addition, the in-state manufacturers paid a rate that was half that applied to those from out-of-state.

The Washington appeals its business and occupation tax to in-state manufacturing activity, and to out-of-state wholesaling activities of state manufacturers' wholesaling activities in the state, but not its wholesaling activity. Both laws are at similar flat rates.

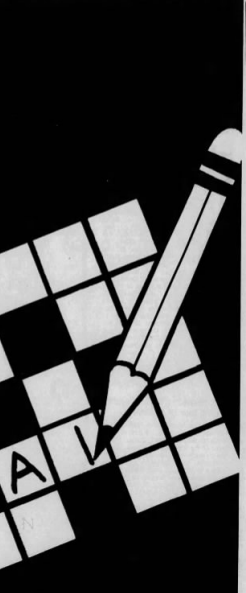
Thus, because of the differences in how the two states apply the tax, the West Virginia ruling isn't applicable, the state court said.

"Because the West Virginia and Washington laws differ significantly, we must reject arguments and rely on the long history of this state's gross receipts tax as having withstood commerce clause challenges," said the court in its opinion by Justice Robert P. Utter.

None of those long lines of cases has been overruled, not even in the West Virginia case, the court noted.

The court also rejected the companion argument that despite state laws that allow double credits if they can prove double taxation in other states. In similar cases, the state tax collector with Lane County, is out of proportion to the amount of business done in the state. The court rejected the argument to "assume" double taxation without actual proof.

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Iditarod racers in tight contest near midpoint

ANCHORAGE, Alaska (AP) — Only minutes separated the leaders in the 1986 Iditarod sled dog race on Thursday when they checked in at the wild midnight sled town of Ogaluk, just shy of the 1,180-mile mark halfway.

Iditarod veteran Jerry Austin of St. Michael was the first into Ogaluk. He arrived at 12:14 p.m. (AST) with 13 dogs. Ogaluk, a bustling mining town shortly after the turn of the century, is 47 miles from the race's start.

Austin was followed by Montana musher Jerry Adams and Fred Coates, at 12:41 p.m. with 17 dogs. Sean Inhaber of Trapper Creek arrived at 1:21 p.m. with 18 dogs, and Duane Halverson of Trapper Creek arrived at 2:02 p.m. with 14.

Austin, a fuel distributor in his Norton Sound hometown, has run the race from Anchorage to Nome seven times, finishing in the top 10 four times.

Members out front in the punishing race faced temperatures of 100 degrees Fahrenheit called for the mushers to wear heavy gear. The green below zero in the Ogaluk area, mushers close the trail.

The next checkpoint is at Criggle, 60 miles down the trail from Ogaluk. Clippie at the race halfway point, and Alaskan, an Alaska communications company, is to present a trophy and \$2,000 silver trophy to the musher who arrives first.

On the trail from Tokona to Tokona, Great Britain, Laron Harv of Wasilla, Guy Backstrom of Fairbanks, John Barrow of Venetia River, Vernon Halter of Trapper Creek and Don Hines of Fairbanks.

The remainder of the park was strong on back to the John Road, 27 miles from the start.

Of the troupe members, Adkins was running 11th, Nina Holvort of Anchorage, Norway, was 10th, Hesthammer of Spitzbergen, Norway, who was 5th, Paulson, Aron Khaitabich of Milan, Italy, was running 12th, Lari Skogen of Norway, was 13th.

Four teams from Alaska, Switzerland, and 8th, Alan Chelmsley of Cleoborn, Great Britain, was running 11th.

The race winner of the race got one-quarter of the \$200,000 prize. Second place will be worth \$50,000 and third, \$20,000. The remaining \$100,000 will be split among the next 17 finishers.

'Legalized slush funds' gave officials \$110,000 to spend

OLYMPIA (AP) — Thirty-one Washington officials maintained office funds totaling \$110,000 in 1985, using money that should have been used for anything from club dues to etiquette classes and party expenses.

The office funds are legal, but the \$110,000 reported to the state ethics commission for 1985 is a significant increase over previous years.

In at least one critic says the funds have become "legalized slush funds," and others complain about the fund-raising used to pad the funds and about the expenditures themselves.

Since 1982, state Sen. Al Williams has used excess campaign contributions to provide more than \$2,000 in no-interest loans to his legislative aide, Penny Mathisen, records show.

He says she was "really in dire financial straits" when she began working for him and notes she reimbursed his office fund.

Senate Majority Leader Ted Buttiger spent \$18,878 from his office fund last year — more than any other Washington politician.

Among other things, he picked up a \$1,180 lodging tab for a fellow lawmaker keeping vigil in Seattle near a hospitalized daughter.

The big drain on a legislator's flowers for funerals of his wife, Buttiger said.

Rep. Shirley Winesley used her office fund to send Thanksgiving cards, complete with one of her recipes. Land Commissioner Brian Boyle used his fund to pay for a class in Japanese etiquette.

He wants to be familiar with the culture he deals with," said Bob Harper said.

But a rare case involving Sen. Wilson spent \$227 on a tuxedo and other formal clothing for special occasions.

The office fund concept was introduced in 1977 by the Legislature to correct old abuses and relieve the financial drain on elected officials who complained they had to best visiting dignitaries with money out of their own pockets.

The Legislature authorized the use of special funds for "office-related expenses," and required reports of contributions to, as well as expenditures from, those funds.

But one ever contended that an legislator and elected officials would decide to have office funds. P.C. Adams, District Director, Penny Mathisen, said.

"And certainly, no one ever conceived that they would use them to pad their own pockets."

In 1985, Buttiger and House Speaker Walter Ehlert spent more than \$15,000 in proceeds from a reception they co-hosted to feed up their office funds.

Later, Buttiger booked his own fund-raiser and picked up another \$7,200.

Many lobbyists, who pay to attend such events, say they understand why legislative leaders maintain the funds.

But others are starting to grumble about office fund solicitations from other lawmakers — especially committee members.

"I'm coming back to the old days, when you had to raise a case of wine for your committee," one lobbyist asked. "The whole thing bothers me. It bothers our existence."

Witness puts suspect at crime scene

KETCHIKAN, Alaska (AP) — A fishing vessel captain who has known John Kenneth Peel for nearly 20 years testified Thursday he saw Peel, perhaps with a rifle, on a Craig dock the night eight people were slain aboard the Peels.

Peel, a 25-year-old Bigganton, Wash., skipper worker, is charged with eight counts of first-degree murder in the September 1982 killings. He also is accused of setting the fire after to hide the crime.

Peel was a crewman aboard a boat skippered by Larry Demmert 27, 28, when the killings occurred. Demmert testified he thought he heard a scream and sight of the murders.

Demmert said he earlier had seen Peel go aboard the Peels.

"This is the hardest thing I've ever done in my life," Demmert said about his testimony. He said he and Peel have known each other since Demmert was 7.

Demmert was aboard his vessel at Craig's North Cove Dock when he was awakened at about 3 a.m. on Sept. 6, 1982, he said. The Peels was nearby.

"I think I heard a woman scream," he said, "immediately after that I heard popping sounds — like a propeller backfiring. I wasn't sure, I had never been that scared in my life. It was like there was danger in the air, evil in the air. It was real thick," Demmert said.

"I saw John Peel standing on the dock. He looked like he might have had a rifle in his hand." The crime may have had a telescopic sight, he said.

The killer took the inventor from the dock early Sept. 6, 1982 after the killings, prosecutors say, and tried to sink it near Fish Egg Island. When the vessel failed to sink, the murderer returned to the boat and set it afire, prosecutors claim.

Peel declined a ride on a fishing vessel headed to the inventor after the seiner was discovered afloat on Sept. 7, Demmert said.

"He said, 'I don't want to go out and watch them burn.' Demmert said, 'I've got some to send them' or 'I'll bring you some.'"

Demmert's wipod tears from his eyes with a handkerchief as he recalled the victims' bodies being brought to the cannery late that afternoon.

Demmert said Peel said his man was going to be killed in Bolingham instead of riding home on the Cindy Sue, owned by Demmert's father. Demmert said Peel did not explain his change of plans.

Peel is accused of killing Mark Coulthart and his wife, Irene, both 28, their two children and four crewmen.

Thief of rare Bible put on probation

TACOMA (AP) — A 14-year-old boy who stole a 125-year-old Bible worth \$500,000 from the Tacoma Public Library has been placed on probation for a year and ordered to pay \$200 to repair one of three other books he took.

Pierce County Superior Court Judge Thomas R. Sturzo, sitting in juvenile court on Wednesday, also ordered the Tacoma two-ager to undergo psychiatric evaluation with treatment if necessary.

The Bible was recovered Sunday. The boy had stolen had three other books he took.

The books were taken Feb. 4 from the library's rare book room. Patrick Marhoney, 14, was on the youth leaving the library when an alarm went off, chased him and managed to bring him back, said library spokesman Ken Harvey.

Recovering the books "was really kind of miraculous," Harvey said. "The young man (Marhoney) is a hero."

A specialist will be hired to replace the torn book pages, said Pierce County Prosecutor Patricia Trowbridge.

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