



TaxNewsFlash

United States

No. 2017-054
January 23, 2017

Eighth Circuit: No federal jurisdiction on out-of-state challenge to Ohio state tax

The U.S. Court of Appeals for the Eighth Circuit today affirmed a federal district court, and concluded that the federal court lacked subject matter jurisdiction over a Missouri company's challenge to the imposition of Ohio Commercial Activity Tax on goods manufactured and shipped into Ohio.

The case is *Diversified Ingredients, Inc. v. Testa*, No. 16-2791 (8th Cir. January 23, 2017). Read the Eighth Circuit [decision](#) [PDF 73 KB]

Overview

The Ohio Department of Taxation assessed a Missouri corporation as owing over \$561,000 in unpaid tax, penalties, and interest under Ohio's Commercial Activity Tax (CAT). The CAT is an annual tax imposed on the privilege of doing business in Ohio and is based on a company's gross receipts situated to the state. The company filed suit in federal district court seeking an order enjoining Ohio from asserting jurisdiction to assess and collect the CAT on its sales of goods manufactured and shipped from outside Ohio to locations within the state. The company argued that Public Law 86-272 precluded Ohio from taxing receipts from sales of goods delivered to locations within Ohio. The district court dismissed the action, finding it was barred by the Tax Injunction Act and by the principles of comity that bar federal courts from entertaining claims for relief that would affect state tax administration. The Eighth Circuit today affirmed.

The information contained in TaxNewsFlash is not intended to be "written advice concerning one or more Federal tax matters" subject to the requirements of section 10.37(a)(2) of Treasury Department Circular 230, as the content of this document is issued for general informational purposes only, is intended to enhance the reader's knowledge on the matters addressed therein, and is not intended to be applied to any specific reader's particular set of facts. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be

accurate in the future. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

KPMG International is a Swiss cooperative that serves as a coordinating entity for a network of independent member firms. KPMG International provides no audit or other client services. Such services are provided solely by member firms in their respective geographic areas. KPMG International and its member firms are legally distinct and separate entities. They are not and nothing contained herein shall be construed to place these entities in the relationship of parents, subsidiaries, agents, partners, or joint venturers. No member firm has any authority (actual, apparent, implied or otherwise) to obligate or bind KPMG International or any member firm in any manner whatsoever.

Direct comments, including requests for subscriptions, to [Washington National Tax](#). For more information, contact KPMG's Federal Tax Legislative and Regulatory Services Group at + 1 202.533.4366, 1801 K Street NW, Washington, DC 20006-1301.

To unsubscribe from TaxNewsFlash-United States, reply to [Washington National Tax](#).

[Privacy](#) | [Legal](#)