

13-553 AL DEPT. OF REVENUE V. CSX TRANSPORTATION, INC.

DECISION BELOW: 720 F.3d 863

LOWER COURT CASE NUMBER: 12-14611

QUESTION PRESENTED:

Three years ago, this Court granted certiorari in this case and held that a railroad could challenge certain state tax exemptions under the Railroad Revitalization and Regulatory Reform Act of 1976, 49 U.S.C. §11501(b)(4). This petition presents a question the Court expressly left open for the courts' consideration on remand. The Eleventh Circuit resolved it in a way that is contrary to the rule Justices Thomas and Ginsburg proposed in their separate opinion, and the circuits are now split 3-2 on this question. The question is as follows:

Whether a State "discriminates against a rail carrier" in violation of 49 U.S.C. §11501(b)(4) when the State generally requires commercial and industrial businesses, including rail carriers, to pay a sales-and-use tax but grants exemptions from the tax to the railroads' competitors.

IN ADDITION TO THE QUESTION PRESENTED BY THE PETITION, THE PARTIES ARE DIRECTED TO BRIEF AND ARGUE THE FOLLOWING QUESTION: " Whether , in resolving a claim of unlawful tax discrimination under 49 U.S.C. §11501(b)(4), a court should consider other aspects of the State's tax scheme rather than focusing solely on the challenged tax provision."

CERT. GRANTED 7/1/2014