LEXSEE 240 U.S. 103

# STANTON v. BALTIC MINING COMPANY.

**No. 359.**

**SUPREME COURT OF THE UNITED STATES**

*240 U.S. 103; 36 S. Ct. 278; 60 L. Ed. 546; 1916 U.S. LEXIS 1431; 1 U.S. Tax Cas. (CCH) P8; 3 A.F.T.R. (P-H) 2939*

**Argued October 14, 15, 1915.**

**February 21, 1916, Decided**

**PRIOR HISTORY:**

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF MASSACHUSETTS.

THE facts, which involve the constitutionality and construction of provisions of the Income Tax Law of 1913, and its application to mining corporations, are stated in the opinion.

**LEXIS HEADNOTES - Classified to U.S. Digest Lawyers' Edition:**
Injunction -- against illegal tax -- stockholder's suit. --

Headnote:
The maintenance by a stockholder of a suit to restrain a corporation from voluntarily complying with the income tax provisions of the tariff act of October 3, 1913 (38 Stat. at L. 166, chap. 16, Comp. Stat. 1913, 6319-6336), upon the grounds of the repugnancy of the statute to the Federal Constitution, of the peculiar relation of the corporation to the stockholders, and their particular interests resulting from many of the administrative provisions of the assailed act, of the confusion, wrong, and multiplicity of suits, and the absence of all means of redress which will result if the corporation pays the tax and complies with the act in other respects without protest, as it is alleged it is its intention to do, is not forbidden by the prohibition of U. S. Rev. Stat. 3224, Comp. Stat. 1913, 5947, against enjoining the enforcement of taxes.
[For other cases, see Injunction, I. k, in Digest Sup. Ct. 1908.]

Constitutional law -- due process of law -- discrimination -- income tax on mining companies. --

Headnote:
Mining companies and their stockholders are not denied the equal protection of the laws nor deprived of their property without due process of law, contrary to U. S. Const., 5th Amend., by the income tax provisions of the tariff act of October 3, 1913 (38 Stat. at L. 166, chap. 16), under which the deduction permitted for depreciation arising from depletion of ore deposits is limited to 5 per cent of the gross value at the mine of the output during the year, while other individuals and corporations have the right to deduct a fair and reasonable percentage for losses and depreciation.
[For other cases, see Constitutional Law, IV. b, 6; IV. a, 4, in Digest Sup. Ct. 1908.]

Constitutional law -- due process of law -- income tax -- discrimination. --

Headnote:
Allowing individuals to deduct from their gross income dividends paid them by corporations whose incomes are taxed, and not giving such right of deduction to corporations, as is done by the income tax provisions of the tariff act of October 3, 1913 (38 Stat. at L. 166, chap. 16), does not render the tax wanting in due process of law.
[For other cases, see Constitutional Law, IV. b, 6, in Digest Sup. Ct. 1908.]

Constitutional law -- discrimination -- due process of law -- income tax. --

**[*112]** (1) That as the Sixteenth Amendment authorizes only an exceptional direct income tax without apportionment, to which the tax in question does not conform, it is therefore not within the authority of that Amendment.

(2) Not being within the authority of the Sixteenth Amendment the tax is therefore, within the ruling of *Pollock v. Farmers' Loan & Trust Co., 157 U.S. 429; 158 U.S. 601,* a direct tax and void for want of compliance with the regulation of apportionment.

As the first proposition is plainly in conflict with the meaning of the Sixteenth Amendment as interpreted in the Brushaber Case, it may also be put out of view. As to the **[**281]** second, while indeed it is distinct from the subjects considered in the Brushaber Case to the extent that the particular tax which the statute levies on mining corporations here under consideration is distinct from the tax on corporations other than mining and on individuals which was disposed of in the Brushaber Case, a brief analysis will serve to demonstrate that the distinction is one without a difference and therefore that the proposition is also foreclosed by **[***554]** the previous ruling. The contention is that as the tax here imposed is not on the net product but in a sense somewhat equivalent to a tax on the gross product of the working of the mine by the corporation, therefore the tax is not within the purview of the Sixteenth Amendment and consequently it must be treated as a direct tax on property because of its ownership and as such void for want of apportionment. But aside from the obvious error of the proposition intrinsically considered, it manifestly disregards the fact that by the previous ruling it was settled that the provisions of the Sixteenth Amendment conferred no new power of taxation but simply prohibited the previous complete and plenary power of income taxation possessed by Congress from the beginning from being taken out of the category of indirect taxation to which it inherently belonged and being placed **[*113]** in the category of direct taxation subject to apportionment by a consideration of the sources from which the income was derived, that is by testing the tax not by what it was -- a tax on income, but by a mistaken theory deduced from the origin or source of the income taxed. Mark, of course, in saying this we are not here considering a tax not within the provisions of the Sixteenth Amendment, that is, one in which the regulation of apportionment or the rule of uniformity is wholly negligible because the tax is one entirely beyond the scope of the taxing power of Congress and where consequently no authority to impose a burden either direct or indirect exists. In other words, we are here dealing solely with the restriction imposed by the Sixteenth Amendment on the right to resort to the source whence an income is derived in a case where there is power to tax for the purpose of taking the income tax out of the class of indirect to which it generically belongs and putting it in the class of direct to which it would not otherwise belong in order to subject it to the regulation of apportionment. But it is said that although this be undoubtedly true as a general rule, the peculiarity of mining property and the exhaustion of the ore body which must result from working the mine, causes the tax in a case like this where an inadequate allowance by way of deduction is made for the exhaustion of the ore body to be in the nature of things a tax on property because of its ownership and therefore subject to apportionment. Not to so hold, it is urged, is as to mining property but to say that mere form controls, thus rendering in substance the command of the Constitution that taxation directly on property because of its ownership be apportioned, wholly illusory or futile. But this merely asserts a right to take the taxation of mining corporations out of the rule established by the Sixteenth Amendment when there is no authority for so doing. It moreover rests upon the wholly fallacious **[*114]** assumption that looked at from the point of view of substance a tax on the product of a mine is necessarily in its essence and nature in every case a direct tax on property because of its ownership unless adequate allowance be made for the exhaustion of the ore body to result from working the mine. We say wholly fallacious assumption because independently of the effect of the operation of the Sixteenth Amendment it was settled in *Stratton's Independence v. Howbert, 231 U.S. 399,* that such a tax is not a tax upon property as such because of its ownership, but a true excise levied on the results of the business of carrying on mining operations (pp. 413 et seq.)

As it follows from what we have said that the contentions are in substance and effect controlled by the Brushaber Case and in so far as this may not be the case are without merit, it results that for the reasons stated in the opinion in that case and those expressed in this, the judgment must be and it is

Affirmed.

MR. JUSTICE McREYNOLDS took no part in the consideration and decision of this case.