

Other/Miscellaneous:

Kentucky: US Supreme Court Denies Reviewing Validity of Regime Favoring Purchase of In-State Coal

Docket No. 22-1083, US (review denied 10/2/23). In a case challenging the validity of Kentucky law requiring the Kentucky Public Service Commission (Commission) to “evaluate the reasonableness of fuel costs in contracts and competing bids based on the cost of the fuel less any coal severance tax imposed by any jurisdiction,” the US Supreme Court denied the Commission’s request to review the US Court of Appeals ruling from earlier this year [see Case No. 21-6069, 6th Cir. (2/3/23) and *State Tax Matters*, Issue 2023-6, for more details on this earlier ruling], which concluded that the challenger is likely to show that such regime impermissibly discriminates against interstate commerce. Among its assertions to the US Supreme Court to review the case, the Commission had stated that “no matter what else can be said of the dormant Commerce Clause, at a minimum its reach should not be extended.” Please contact us with any questions.

URL: <https://www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/22-1083.html>

URL: <https://www.opn.ca6.uscourts.gov/opinions.pdf/23a0018p-06.pdf>

URL: https://dhub.deloitte.com/Newsletters/Tax/2023/STM/230210_11.html

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