

Other/Miscellaneous:

Kentucky Asks US Supreme Court if Incentive to Purchase In-State Versus Out-of-State Coal is Valid

Docket No. 22-1083, petition for cert. filed 5/8/23. 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 Commission is asking the US Supreme Court (Court) 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 Court to review the case, the Commission states 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.blob.core.windows.net/dhub/Newsletters/Tax/2023/STM/230210_11.html

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