

The Burger Court Opinion Writing Database

Boston Stock Exchange v. State Tax Commission

429 U.S. 318 (1977)

Paul J. Wahlbeck, George Washington University
James F. Spriggs, II, Washington University in St. Louis
Forrest Maltzman, George Washington University



Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

January 6, 1977

Re: 75-1019 Boston Stock Exchange v. State Tax Commission

Dear Byron:

I join.

Regards,

W. B.

Mr. Justice White

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

December 27, 1976

RE: No. 75-1019 Boston Stock Exchange et al. v.
State Tax Commission, et al.

Dear Byron:

I agree.

Sincerely,

WJ

Mr. Justice White
cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE POTTER STEWART

January 3, 1977

No. 75-1019, Boston Stock Exchange
v. State Tax Comm'n

Dear Byron,

I am glad to join your opinion for the Court
in this case.

Sincerely yours,

PS
1/

Mr. Justice White

Copies to the Conference

BT

To: The Chief Justice
Mr. Justice Brennan
Mr. Justice Stewart
~~Mr.~~ Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist
Mr. Justice Stevens

From: Mr. Justice White

Circulated: 12-22-76

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 75-1019

Boston Stock Exchange et al.,
Appellants,
v. On Appeal from the Court
State Tax Commission et al. of Appeals of New York.

[January —, 1977]

MR. JUSTICE WHITE delivered the opinion of the Court.

In this case we are asked to decide the constitutionality of a recent amendment to New York State's longstanding tax on securities transactions. Since 1905, New York has imposed a tax ("transfer tax") on securities transactions, if part of the transaction occurs within the State. In 1968, the state legislature amended the transfer tax statute so that transactions involving an out-of-state sale are now taxed more heavily than most transactions involving a sale within the State. In 1972, appellants, six "regional" stock exchanges located outside New York,¹ filed an action in state court against the State Tax Commission of New York and its members. The Exchanges' complaint alleged that the 1968 amendment unconstitutionally discriminates against interstate commerce by imposing a greater tax burden on securities transactions involving out-of-state sales than on transactions of the same magnitude involving in-state sales.² The

¹ Appellants are the Boston Stock Exchange, Detroit Stock Exchange, Pacific Coast Stock Exchange, Cincinnati Stock Exchange, Midwest Stock Exchange, and the PBW (Philadelphia-Baltimore-Washington) Stock Exchange. The Exchanges provide facilities for their members to effect the purchase and sale of securities for their own accounts and the accounts of their customers.

² In the courts below the Exchanges also contended that the amendment to the transfer tax was unconstitutional under the Privileges and

STYLISTIC CHANGES THROUGHOUT.

SEE PAGES: 4, 12, 13, 14,
15 & 16

To: The Chief Justice
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice O'Quigley
Mr. Justice Stevens

2nd DRAFT

From: Mr. Justice White

SUPREME COURT OF THE UNITED STATES

Circulated: _____

Recirculated: 12-28-76

No. 75-1019

Boston Stock Exchange et al.,
Appellants, } On Appeal from the Court
v. } of Appeals of New York.
State Tax Commission et al.

[January —, 1977]

MR. JUSTICE WHITE delivered the opinion of the Court.

In this case we are asked to decide the constitutionality of a recent amendment to New York State's longstanding tax on securities transactions. Since 1905, New York has imposed a tax ("transfer tax") on securities transactions, if part of the transaction occurs within the State. In 1968, the state legislature amended the transfer tax statute so that transactions involving an out-of-state sale are now taxed more heavily than most transactions involving a sale within the State. In 1972, appellants, six "regional" stock exchanges located outside New York,¹ filed an action in state court against the State Tax Commission of New York and its members. The Exchanges' complaint alleged that the 1968 amendment unconstitutionally discriminates against interstate commerce by imposing a greater tax burden on securities transactions involving out-of-state sales than on transactions of the same magnitude involving in-state sales.² The

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STYLISTIC CHANGES THROUGHOUT.
SEE PAGES: 5-6, 18

To: The Chief Justice
Mr. Justice Brennan
Mr. Justice Stewart
 Mr. Justice Marshall
Mr. Justice Thurgood Marshall
Mr. Justice Powell
Mr. Justice Blackmun
Mr. Justice Rehnquist
Mr. Justice Stevens

From: Mr. Justice White

Circulated: _____

Recirculated: 1-7-77

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 75-1019

Boston Stock Exchange et al.,
Appellants,
v. _____ } On Appeal from the Court
State Tax Commission et al. _____ of Appeals of New York.

[January —, 1977]

MR. JUSTICE WHITE delivered the opinion of the Court.

In this case we are asked to decide the constitutionality of a recent amendment to New York State's longstanding tax on securities transactions. Since 1905, New York has imposed a tax ("transfer tax") on securities transactions, if part of the transaction occurs within the State. In 1968, the state legislature amended the transfer tax statute so that transactions involving an out-of-state sale are now taxed more heavily than most transactions involving a sale within the State. In 1972, appellants, six "regional" stock exchanges located outside New York,¹ filed an action in state court against the State Tax Commission of New York and its members. The Exchanges' complaint alleged that the 1968 amendment unconstitutionally discriminates against interstate commerce by imposing a greater tax burden on securities transactions involving out-of-state sales than on transactions of the same magnitude involving in-state sales.² The

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Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

December 27, 1976

Re: No. 75-1019, Boston Stock Exchange v. State Tax Commission

Dear Byron:

Please join me.

Sincerely,


T. M.

Mr. Justice White

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

January 7, 1977

Re: No. 75-1019 - Boston Stock Exchange v. State Tax
Commission

Dear Byron:

Please join me.

Sincerely,

Harry

Mr. Justice White

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

December 28, 1976

No. 75-1019 Boston Stock Exchange v.
State Tax Commission

Dear Byron:

Please join me.

Sincerely,

Lewis

Mr. Justice White

1fp/ss

cc: The Conference

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Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

December 30, 1976

Re: No. 75-1019 - Boston Stock Exchange v. State Tax
Commission

Dear Byron:

Please join me.

Sincerely,

W.W.

Mr. Justice White

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Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

December 22, 1976

Re: 75-1019 - Boston Stock Exchange v. State
Tax Commission

Dear Byron:

Please join me.

Respectfully,



Mr. Justice White

Copies to the Conference