

South Australia v Commonwealth (1942) 65 CLR 373 ("First Uniform Tax Case")

<https://lawcasesummaries.com/knowledge-base/south-australia-v-commonwealth-1942-65-clr-373-first-uniform-tax-case/>

Facts

- During World War II, the Federal Government needed more revenue to support the war effort.
- In 1942, income taxes were raised by both State and Commonwealth governments.
- The Commonwealth wanted the States to transfer their taxation powers to the Commonwealth until the war's end.
- The Commonwealth would give grants to the State (under section 96 of the Constitution) to assist with the lost revenue.
- The States did not want to do this.
- Section 51(ii) of the Constitution only permits the Commonwealth to impose Federal taxation for Federal purposes; the power does not permit the Commonwealth to cover the field of taxation with any law.
- The Commonwealth nevertheless introduced a uniform income tax by enacting four pieces of legislation.
 - The *Income Tax Act 1942* (Cth), raised income tax levels to the existing State levels. It made it politically impossible for states to impose their own income taxes;
 - The *States Grants Act 1942* (Cth), provided a grant for each State equal to what it would have raised on its own income tax, on the condition that it did not raise its own income tax;
 - Section 221 of the *Income Tax Assessment Act 1942* (Cth), required taxpayers to meet their Commonwealth tax liabilities before state tax liabilities; and
 - the *Income Tax (Wartime Arrangements) Act 1942* (Cth), required the States to transfer to the Commonwealth all the State staff, offices, resources and records which were used to collect income tax.
- South Australia, Victoria, Queensland and Western Australia appealed to the High Court.

Issues

- Was the Uniform Tax Scheme a valid exercise of power under section 51(ii) of the Constitution?

Held

- The High Court held that the Uniform Tax Scheme was valid.
- The Income Tax Act was valid because the taxation power is a non-purposive power; because the subject matter of the Act was taxation, it was valid under section 51(ii) of the Constitution.
- The section 96 grants power can be used to induce a State to use or abstain from using its own powers, provided it is not coercive.

- Section 221 of the *Income Tax Assessment Act 1942* (Cth) was valid because the subject matter was taxation.
- The *Income Tax (Wartime Arrangements) Act 1942* (Cth) was held valid under section 51(vi) ("defence power").

Full Text

The full text is available here: <http://www.austlii.edu.au/au/cases/cth/HCA/1942/14.pdf>

Law case summary from www.lawcasesummaries.com