

Victoria v Commonwealth (1957) 99 CLR 575 ("Second Uniform Tax Case")

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Facts

- The Commonwealth implemented the Uniform Tax System in 1942 due to World War II.
- The Uniform Tax System relied on 4 pieces of legislation, all held to be constitutionally valid in *South Australia v Commonwealth* (1942) 65 CLR 373.
- The *Income Tax Act 1942* (Cth) imposed income tax at a level which would raise the same amount of revenue as was being raised by Commonwealth and State Governments collectively.
- The *States Grants (Income Tax Reimbursement) Act 1942* (Cth) provided for grants to be made to each State in any year in which the Treasurer was satisfied that the State had not imposed an income tax. This system was supported by the section 96 of the Constitution (the grants power).
- The Uniform Tax System was not repealed after the war, despite being authorised during WWII through section 51(vi) of the Constitution (defence power).
- Victoria challenged the validity of the legislation.

Issues

- Was the Uniform Tax System valid?

Held

- This decision should be read in conjunction with *South Australia v Commonwealth* ("First Uniform Tax Case").
- The High Court reaffirmed the First Uniform Tax case, but with some slight exceptions.
- The Commonwealth can use the section 96 grants power to induce a state to exercise its own powers as well as abstain from using its powers. This allows the Commonwealth to encourage or discourage a State from doing something.
- Section 96 grants are to be confined to grants of money, and the power is not to be used to make laws concerning general subject matter. It must be concerned with state finance and must not be used to coerce a state.
- The decision in the First Uniform Tax case was overruled in relation to section 221 of the *Income Assessment Act 1942*. Section 221 required taxpayers to meet their Commonwealth tax liabilities before state tax liabilities and this section was held to be invalid.
- This provision, which made it an offence for a taxpayer to pay State income tax until Commonwealth income tax was paid, was an intrusion upon the Constitutions of the States.
- The Commonwealth cannot restrain states in terms of their governmental functions.

Full Text

The full text is available here:

<http://www8.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/HCA/1957/54.html>

Law case summary from www.lawcasesummaries.com