

A company owned a large tract of land that contained coal deposits that the company intended to mine. The company acquired mining equipment and began to plan its mining operations. Just as the company was about to begin mining, Congress enacted a statute that imposed a number of new environmental regulations and land-reclamation requirements on all mining operations within the United States. The statute made the company's planned mining operations economically infeasible. As a result, the company sold the tract of land to a farmer. While the sale price allowed the company to recover its original investment in the land, it did not cover the additional cost of the mining equipment the company had purchased or the profits it had expected to earn from its mining operations on the land.

In an action filed against the appropriate federal official, the company claims that the statute effected a taking of its property for which it is entitled to just compensation in an amount equal to the cost of the mining equipment it purchased and the profits it expected to earn from its mining operations on the land.

Which of the following is the most appropriate result in the action?

- A. The company should prevail on its claims for the cost of the mining equipment and for its lost profits.
- B. The company should prevail on its claim for the cost of the mining equipment, but not for its lost profits.
- C. The company should prevail on its claim for lost profits, but not for the cost of the mining equipment.
- D. The company should not prevail on its claim for the cost of the mining equipment or for its lost profits.

Explanation:

Fifth Amendment takings

Type	Attributes
Physical	<ul style="list-style-type: none">• Possession or permanent physical invasion of property
Regulatory	<ul style="list-style-type: none">• Deprivation of all economically beneficial uses• Restricts use under totality of circumstances:<ul style="list-style-type: none">– character of government action– economic impact– reasonable investment-back expectations
Exaction	<ul style="list-style-type: none">• Condition to obtain building/development permit
Destruction	<ul style="list-style-type: none">• Destruction of property or property interest (eg, easements, liens)

A **regulatory taking** occurs when the government substantially restricts (or destroys all economically beneficial) use of private property—including land and personal property. A **substantial restriction** is evaluated under the **totality of the circumstances**, including:

- the **character or nature** of the government action (ie, public benefit)
- the severity of the **economic impact** on the property *and*
- the interference with the owner's **reasonable investment-backed expectations**.

And under the Fifth Amendment, the government can only commit a taking if it provides the owner **just compensation**—ie, the **fair market value** of the property at the time of the taking.

Here, the federal statute did not effect a taking of the company's *land* because (1) it is still economically viable as farmland and (2) the company recouped its original investment through the sale to the farmer. Nor did the statute effect a taking of the *mining equipment* because it can be used on other land or sold. Therefore, the company is not entitled to just compensation for the land or mining equipment. But even if a taking had occurred, the company could only recover the fair market value of the taken property—not its lost profits **(Choices A, B, & C)**.

Educational objective:

A regulatory taking occurs when the government substantially restricts (or destroys all economically beneficial) use of private property—including land and personal property. But this only entitles the owner to just compensation in the amount of the property's fair market value at the time of the taking—not lost profits.

References

- Lucas v. S.C. Coastal Council, 505 U.S. 1003, 1019 (1992) (holding that a deprivation of all economically beneficial uses of property constitutes a taking).
- Penn Cent. Transp. Co. v. New York City, 438 U.S. 104, 124 (1978) (establishing the factors to consider when determining if a regulation constitutes a taking).
- 26 Am. Jur. 2d Eminent Domain § 14 (2019) (explaining the Penn Central factors).

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