

A state statute requires corporations located in the state to pay an annual property tax based on the value of their inventory that is stored there. A tire distributor that imports tires manufactured in foreign countries and stores them at warehouses located in the state has sued to challenge the state tax, arguing that it is unconstitutional.

Is the state tax constitutional?

- A. No, because the import-export clause prohibits state taxes on imported goods.
- B. No, because the state tax discriminates against foreign commerce.
- C. Yes, because states have absolute authority to tax goods within their borders.
- D. Yes, because the state tax does not divert import revenue from the federal government.

Explanation:

The **import-export clause** generally prohibits **state taxation of imported goods** unless Congress consents or the tax is absolutely necessary for the state to execute its inspection laws. Additionally, a state tax on imported goods is **valid if**:

- the **federal government** is still able to **speak with one voice** in foreign commerce
- there is **interstate harmony** because the tax **satisfies the *Complete Auto* requirements** *and*
- the tax **does not divert import revenue** from the federal government.

Here, the state tax does not impair the federal government's ability to speak with one voice because the tax applies after the goods have gone through the import process. This means that the federal government may still tax the goods as they are imported. The tax also does not disturb interstate harmony because it:

- applies to inventory that is stored at the distributor's warehouses in the state (substantial nexus)
- is based on a rational formula that only taxes the value of the inventory in the state (fairly apportioned)
- applies equally to imported and domestic goods (nondiscriminatory) **(Choice B)** *and*
- is reasonable compared to services and benefits provided by the state (fairly related).

Finally, the tax does not divert import revenue from the federal government since the tax applies *after* the goods have been imported. It merely compensates the state for goods stored in the state. Therefore, the state tax is constitutional **(Choice A)**.

(Choice C) The Tenth Amendment reserves to the states any power that the Constitution does not expressly grant to the federal government, including the power to generally tax goods within their borders. But this power is not absolute because states must comply with other constitutional provisions (eg, the import-export clause).

Educational objective:

A state tax on imported goods is valid if (1) the federal government is still able to speak with one voice in foreign commerce, (2) there is interstate harmony because the tax satisfies the *Complete Auto* requirements, and (3) the tax does not divert import revenue from the federal government.

References

- U.S. Const. art. 1, § 10, cl. 2 (state import-export clause).
- *Intl Containers Int'l Corp. v. Huddleston*, 507 U.S. 60, 76–78 (1993) (setting forth the components of the modern import-export clause test).

- 71 Am. Jur. 2d State and Local Taxation § 74 (explaining when a state tax violates the import-export clause).

Copyright © UWorld. All rights reserved.

State taxation of imported goods

Federal government can **speak with one voice**
(federal government can tax goods during import process)

+

Interstate harmony not disturbed
(*Complete Auto* test)

- Substantial nexus between state & taxed person/activity
- Fairly apportioned pursuant to rational formula
- Not discriminatory against interstate commerce
- Fairly related to state services/benefits

+

Import revenue not diverted from federal government
(state tax applies after goods are imported)

=

**Tax complies with
state import-export clause**