

[J-135-1997]

IN THE SUPREME COURT OF PENNSYLVANIA  
MIDDLE DISTRICT

PPG INDUSTRIES, INC., : No. 87 M.D. Appeal Docket 1996  
: :  
Appellant : :  
: Appeal from the Order of the  
: Commonwealth Court, dated June 19,  
v. : 1996, at No. 2355 D.C. 1987, affirming the  
: Order of the Board of Finance and  
: Revenue dated October 2, 1987 at No. R-  
COMMONWEALTH OF PENNSYLVANIA, : 10-904  
BOARD OF FINANCE AND REVENUE : :  
Appellees : ARGUED: September 16, 1997

**ORDER**

**PER CURIAM**

**DECIDED: JUNE 17, 1999**

This Court holds that 72 P.S. § 7602 facially discriminates against interstate commerce. The order of the Commonwealth Court is reversed.

Furthermore, it is hereby ORDERED that this matter be remanded to the Commonwealth Court, where the President Judge shall assign a judge to hold a hearing on the following issues :

1. Whether 72 P.S. § 7602 is a “compensatory tax” as defined by Fulton Corp. v. Faulkner, 516 U.S. 325 (1996).
2. If it is determined that 72 P.S. § 7602 is not a “compensatory tax,” and that 72 P.S. § 7602 is therefore unconstitutional as it violates the Commerce Clause of the United States Constitution, what is the appropriate remedy.

We direct that within one hundred eighty (180) days of this order, the Commonwealth Court shall transmit to this Court findings of fact and conclusions of law on the above listed issues. Upon the filing of the findings of fact and the conclusions of law

with this Court, the Prothonotary of the Supreme Court shall set a briefing schedule for the filing of briefs with this Court.

Jurisdiction is retained.