

Decision: 2008 ME 39
Docket: Ken-06-685
Argued: October 24, 2007
Decided: March 4, 2008

Panel: SAUFLEY, C.J., and ALEXANDER, LEVY, SILVER, MEAD, and GORMAN, JJ.

JAMES P. DAY et al.

v.

STATE TAX ASSESSOR

PER CURIAM

[¶1] James P. and Philomena T. Day and Gregory B. and Jayne D. Thornton (taxpayers), some of whom are members of a New Hampshire limited liability company, appeal from a judgment of the Superior Court (Kennebec County, *Marden, J.*) affirming the decision of the State Tax Assessor to deny the taxpayers a credit, pursuant to 36 M.R.S.A. § 5217-A (Supp. 2002),¹ against their Maine individual income taxes for taxes the LLC paid to New Hampshire under that state’s business profits tax.² The taxpayers argue that the court erred when it determined that plain readings of the relevant Maine and New Hampshire statutes

¹ Title 36 M.R.S.A. § 5217-A has since been amended. P.L. 2003, ch. 391, § 9 (effective Sept. 13, 2003) and P.L. 2003, ch. 673, § JJ-4 (effective July 30, 2004) (codified at 36 M.R.S. § 5217-A (2007)).

² See N.H. REV. STAT. ANN. § 77-A:2 (2003) (imposing tax “upon the taxable business profits of every business organization”).

support the decision of the State Tax Assessor to deny the taxpayers a tax credit in Maine for business profits taxes paid to New Hampshire. Because the Court is evenly divided, we affirm the judgment. *Hale v. Antoniou*, 2003 ME 52, 820 A.2d 586.

The entry is:

Judgment affirmed.

**Attorneys for James P. and Philomena T. Day
and Gregory B. and Jayne D. Thornton:**

Michael L. Sheehan, Esq. (orally)
Jonathan G. Mermin, Esq.
Preti, Flaherty, Beliveau & Pachios, LLP
One City Center
PO Box 9546
Portland, Maine 04112-9546

Attorneys for State Tax Assessor:

G. Steven Rowe, Atty. Gen.
Thomas A. Knowlton, Asst. Atty. Gen. (orally)
6 State House Station
Augusta, Maine 04333-0006