

Bond Case Briefs

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Jazz Casino Company, L.L.C. v. Bridges

Supreme Court of Louisiana - May 3, 2017 - So.3d - 2017 WL 1787821 - 2016-1663 (La. 5/3/17)

Taxpayer, a casino, petitioned for a writ of mandamus to the Secretary of the state Department of Revenue to compel satisfaction of a judgment by the state Board of Tax Appeals granting it a refund for hotel occupancy taxes paid.

The District Court granted writ. Department appealed. The Court of Appeal reversed and recalled writ. Taxpayer appealed.

The Supreme Court of Louisiana held that:

- Duty of the Secretary of the state Department of Revenue to refund the overpaid taxes was ministerial;
- Taxpayer did not have to show that relief was not available by ordinary means or that the delay involved in obtaining ordinary relief could cause injustice; and
- Writ of mandamus ordering the Secretary to use current collections of hotel occupancy taxes to refund taxpayer did not violate the constitutional prohibition of seizing public funds.

Duty of the Secretary of the state Department of Revenue to refund overpaid hotel taxes to taxpayer in accordance with a judgment of the state Board of Tax Appeals was ministerial, and thus a writ of mandamus ordering the Secretary to refund the taxes was proper. The refund of overpaid taxes was mandatory, and state law expressly authorized the use of mandamus relief to compel the Secretary to promptly make the refund.

Taxpayer, a casino, that was seeking a writ of mandamus to order the Secretary of the state Department of Revenue to refund overpaid hotel occupancy taxes in accordance with a judgment of the state Board of Tax Appeals did not have to show that relief was not available by ordinary means or that the delay involved in obtaining ordinary relief could cause injustice; state law afforded the judiciary authority to issue a writ of mandamus in such a case, and when a writ of mandamus was specifically provided as a remedy by statute, the general rules for a mandamus action did not apply.

The issuance of a writ of mandamus ordering the Secretary of the state Department of Revenue to use current collections of hotel occupancy taxes to refund taxpayer, a casino, for overpaid hotel occupancy taxes in accordance with judgment of the Board of Tax Appeals did not violate the constitutional prohibition of seizing public funds; the legislature specifically authorized a refund procedure out of the current tax collections to provide for the satisfaction of a final judgment against the Secretary to effect the return of money belonging to a taxpayer, and to hold otherwise would have rendered meaningless the constitutional guarantee of a complete and adequate remedy for the prompt recovery of an illegal tax paid by a taxpayer.

