

# **Bond Case Briefs**

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## **TAX - ALABAMA**

### **Ex parte Department of Revenue**

**Supreme Court of Alabama - October 30, 2020 - So.3d - 2020 WL 6374805**

Department of Revenue sought review of Tax Tribunal's judgment in favor of taxpayer, an electronic-bingo operator, in taxpayer's challenge to Department of Revenue's determination that it owed \$75,000,000 in sales taxes and consumer-use taxes for operator's electronic-bingo activities for a particular four-year period.

The Circuit Court denied Department's motion for recusal but did not provide any specific rationale or reasoning. Department petitioned for a writ of mandamus.

The Supreme Court held that:

- Department was entitled to the recusal of trial judge, but
- Department was not entitled to mandamus relief in regard to its request that the case be reassigned.

Department of Revenue was entitled to the recusal of trial judge in Department's appeal of Tax Tribunal's determination that Department's \$75,000,000 assessment of sales taxes and consumer-use taxes for business taxpayer's electronic-bingo activities for a particular four-year period was void; a reasonable person would question judge's impartiality in light of his recusal in earlier challenges to the tax assessments at issue as well as his recusals in other cases involving the same parties and the Supreme Court's removal of him in a case involving the same parties without the issue of recusal having been heard in the circuit court, and nothing in the record on Department's mandamus petition indicated that the reasons for recusal set forth in the previous cases did not remain.

Department of Revenue failed to demonstrate a clear, legal right to mandamus relief in regard its request that its appeal of Tax Tribunal's determination that Department's \$75,000,000 assessment of sales taxes and consumer-use taxes for business taxpayer's electronic-bingo activities for a particular four-year period be reassigned, even though Department was entitled to recusal of the trial judge; Supreme Court had set forth well-established procedures for a trial judge to request reassignment of a case once he or she recused himself or herself or was disqualified, and the materials before the Supreme Court indicated that the trial judge, when having recused himself in other cases, had followed those procedures.