
TAX - LOUISIANA

Thomas v. Bridges

Supreme Court of Louisiana - May 7, 2014 - So.3d - 2013-1855 (La. 5/7/14)

Individual taxpayer who was the sole member of Montana limited liability company (LLC) that purchased recreational vehicle sought review of decision of Board of Tax Appeals finding that he was personally liable for sales tax from purchase of recreational vehicle. The District Court reversed, and Department of Revenue appealed. The Court of Appeals affirmed and Department petitioned for certiorari review.

The Supreme Court of Louisiana held that the Department of Taxation had no legal basis for assessing sales tax for the purchase of recreational vehicle against member of Montana LLC.

Department of Taxation had no legal basis for assessing sales tax for purchase of recreational vehicle against member of Montana LLC individually and in derogation of the protections afforded to members of LLCs, Louisiana's obligation to provide full faith and credit to the laws of Montana, and member's constitutional right to due process, regardless of whether member and his wife, Louisiana residents, signed the purchase agreement. Only members can act on behalf of the LLC, which cannot provide a signature on its own, the LLC was clearly listed as the buyer at the top of the executed purchase agreement, and at no time did the Department apply Montana law in determining whether the veil of the LLC could be pierced.

Use of particular business entities to avoid taxes and other liabilities, far from being fraudulent, is a common and legal practice. The legal right of a taxpayer to decrease the amount of what would otherwise be his taxes, or altogether avoid them by means which the law permits, cannot be doubted.

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