

Bond Case Briefs

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TAX - NEW HAMPSHIRE

Duncan v. State

Supreme Court of New Hampshire - August 28, 2014 - A.3d - 2014 WL 4241774

Taxpayers and LLC filed petition seeking declaratory judgment that Education Tax Credit Program, which provided tax credit to business organizations and enterprises that contributed to scholarship organizations to provide scholarships to students, violated provision of New Hampshire Constitution prohibiting grant of tax dollars for use by schools or institutions of any religious sect or denomination. Citizens who wished their children to receive scholarship funds under program, and non-profit organization intervened. The Superior Court ruled in plaintiffs' favor. State and intervenors appealed.

The Supreme Court of New Hampshire held that:

- Amended statute conferring taxpayers with standing to challenge action of taxing district without having to demonstrate impairment of or prejudice to personal right violated New Hampshire Constitution's prohibition against rendering of advisory opinions;
- Taxpayers lacked standing to seek declaratory judgment that Education Tax Credit Program violated New Hampshire Constitution's prohibition against tax dollars being granted to or used by schools or institutions of any religious sect or denomination; and
- LLC's assertion that it paid business enterprise taxes or business profit taxes, by itself, did not allege personal injury from implementation of Education Tax Credit Program, as required to have standing to challenge constitutionality of program.