

# **Bond Case Briefs**

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## **TAX - SOUTH CAROLINA**

### **Duke Energy Corp. v. South Carolina Dept. of Revenue**

**Supreme Court of South Carolina - February 17, 2016 - S.E.2d - 2016 WL 626180**

Taxpayer sought review of South Carolina Department of Revenue's denial of corporate income tax refund. The Administrative Law Court granted Department summary judgment. Taxpayer appealed. The Court of Appeals affirmed. Taxpayer appealed.

The Supreme Court of South Carolina held that as a matter of first impression, taxpayer could not include principal recovered from sale of short-term investments in denominator of formula used to apportion income between states in calculating income tax obligation.

The return of investment principal to taxpayer from short-term investments was not a "sale" as that term was defined by statute, and was therefore not includable in denominator of formula used to apportion its income between states in calculating its South Carolina corporate income tax obligation. Inclusion of principal recovered from sale of short-term securities would produce absurd results, which could not have been intended by the General Assembly.