

# **Bond Case Briefs**

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## **TAX - MISSOURI**

### **Kansas City Chiefs Football Club, Inc. v. Director of Revenue**

**Supreme Court of Missouri, en banc - June 2, 2020 - S.W.3d - 2020 WL 2845762**

Taxpayer, which operated a professional football team, sought review of decision of Administrative Hearing Commission, finding that taxpayer was “purchaser” of specified items used in renovation of football stadium, and was thus liable for sales tax and use tax with respect to such items.

The Supreme Court held that:

- That taxpayer made advance payments to vendors, as contemplated by project funding agreement, did not make taxpayer the “purchaser” of items provided by vendors within the meaning of statutes governing sales tax and use tax;
- Taxpayer had no legal right to use tax credits it received after it made donation to state finance board, having sold the credits and donated the proceeds;
- Funds donated by taxpayer no longer belonged to taxpayer after it made donation, and thus taxpayer was not “purchaser” of items bought with those funds; and
- That taxpayer stood to receive incidental benefit from project did not render it the “purchaser” of items bought with project funds.

That taxpayer, which operated a professional football team, paid money directly to vendors involved in stadium improvement project in advance, even though agreement to fund project required taxpayer to make donations to state finance board for use in project, did not demonstrate that taxpayer was purchaser of items provided by vendors, for purposes of sales and use tax statutes; taxpayer made advance payments to only three of nine vendors, governing agreements contemplated that taxpayer might make such advance payments, but that it would have been reimbursed by project fund after completing requisite paperwork, and there was no indication taxpayer failed to follow procedure for reimbursement.

Taxpayer, which operated a professional football team, had no legal right to use tax credits that it received and then sold after making donation to state finance board, as part of funding plan for project to improve football stadium, and thus to the extent money from sale of those credits spent from project fund to buy items for project, taxpayer was not the purchaser of those items within the meaning of the sales and use tax statutes; tax credits were briefly held in project fund, but were quickly sold to unrelated third parties, so taxpayer had no right to use or carryover such tax credits any longer, and proceeds from sale were donated by taxpayer to project fund, and were thus beyond taxpayer’s ownership and control.

Funds donated by taxpayer, which operated a professional football team, to state finance board as part of funding plan for improvements to stadium, no longer belonged to taxpayer after donation was made, even though taxpayer received tax credits as a result of donation, and thus taxpayer was not purchaser of items purchased with donated funds, for purposes of sales tax and use tax statutes; mechanism used by taxpayer was explicitly contemplated by statutes governing financing of projects of economic benefit to state through state finance board, and there was no dispute that donations from taxpayer to finance board were placed into project fund.

That taxpayer, which operated a professional football team, stood to receive incidental benefit from publicly-financed stadium improvement project, did not render taxpayer the purchaser of items purchased by state finance board, even though such purchases were at least partially funded by donations made by taxpayer to board for purposes of project, and thus taxpayer was not liable for sales tax or use tax with respect to items purchased with those funds; finance board determined that statewide economic benefits of project exceeded benefits provided to taxpayer under agreement for project funding, as contemplated by statute governing tax credit financing of public projects.