

# **Bond Case Briefs**

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## **TAX - OHIO**

### **Athens v. McClain**

**Supreme Court of Ohio - November 5, 2020 - N.E.3d - 2020 WL 6494232 - 2020 -Ohio- 5146**

Municipalities brought action against Tax Commissioner challenging constitutionality of statutes governing state collection and administration of municipal net profit taxes.

The Court of Common Pleas entered judgment for Tax Commissioner. Municipalities appealed. The Court of Appeals affirmed. Municipalities appealed.

The Supreme Court held that:

- General Assembly's authority to limit municipal power to levy taxes includes administrative acts that the enactment requires;
- General Assembly acted within its authority when it enacted centralized administration system for municipal net profit taxes;
- Statute providing for state's retention of a one-half percent of municipal net profits taxes as part of centralized administration exceeded General Assembly's authority; and
- The unconstitutional retention provision could be severed.

General Assembly acted within its authority when it enacted centralized administration system for municipal net profit taxes; laws did not take over a municipality's own internal operations but instead made administration of municipal net profit tax, for those taxpayers that elected centralized administration, an operation of the state tax department, with the state thereby becoming a fiduciary for the municipalities whose taxes it collected.

Statute directing State Treasurer to retain one-half percent of municipal net profit taxes for collection and administration services, as part of centralized administration, rather crediting amount to fund that distributed funds to municipalities, exceeded General Assembly's general power to legislate, since municipalities exercising home-rule authority were not persons "subject to" the state's regulation.