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Bicknell v. Kansas Department of Revenue

Supreme Court of Kansas - May 20, 2022 - P.3d - 2022 WL 1593903

Taxpayers petitioned for review after Board of Tax Appeals, on remand from Court of Appeals' vacatur of Court of Tax Appeals' affirmation of Department of Revenue's determination that taxpayer was Kansas resident, determined taxpayer was Kansas resident.

The District Court determined taxpayer was domiciled in Florida, and the Court of Appeals reversed and remanded. Taxpayers filed petition for review and Department filed conditional cross-petition for review, both of which were granted.

The Supreme Court held that:

- District Court was not required to transfer venue;
- District Court did not impermissibly shift burden of proof from taxpayer to Department;
- District Court's comment on Department's failure to produce witnesses to rebut taxpayer's evidence that established his absence from city in Kansas did not shift burden of proof;
- Substantial and competent evidence supported District Court's determination regarding taxpayer's physical presence in Kansas and other jurisdictions;
- Taxpayer's testimony that he was retired and became Florida resident was probative of and material to question of domicile;
- District Court properly applied Kansas law in determining whether taxpayer was domiciled in Kansas; and
- District Court did not improperly use regulation governing factors for determining whether person's domicile was in Kansas as formula for determining taxpayer's domicile.

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