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TAX - ALABAMA

Russell County v. City of Phenix City

Supreme Court of Alabama - January 10, 2025 - So.3d - 2025 WL 63884

City and town commenced action against county and various county officials, seeking percentage of county's share of proceeds of state excise tax levied on gasoline and other motor fuels.

County filed counterclaim seeking judgment declaring that city was not entitled to percentage of county's share of proceeds of excise tax. Parties moved for summary judgment. The Circuit Court entered summary judgment in favor of city and town. County parties appealed.

The Supreme Court held that Alabama Terminal Excise Tax Act (ATETA) did not repeal local law directing county to appropriate and set aside 10% of county's share of state gasoline excise tax revenue to be distributed to incorporated municipalities.

Local law directing county to appropriate and set aside 10% of county's share of state gasoline excise tax revenue to be distributed to incorporated municipalities in county was a general-reference statute and was thus not rendered void by its reference to statute repealed by enactment of Alabama Terminal Excise Tax Act (ATETA), where local law generally incorporated Alabama's gasoline excise tax, including taxes levied by ATETA, and ATETA itself recognized that local law remained in force and governed distribution of proceeds of gasoline excise taxes levied by ATETA.

Alabama Terminal Excise Tax Act (ATETA) was a continuation of prior, repealed act referenced in local law directing county to appropriate and set aside 10% of county's share of state gasoline excise tax revenue to be distributed to incorporated municipalities, and thus local law was not rendered void by its inclusion of repealed act; differences between distribution schemes in ATETA and repealed act were inconsequential.

Even though Alabama Terminal Excise Tax Act (ATETA) was a comprehensive revision of Alabama's gasoline-excise-tax scheme, that fact did not mean that it was so comprehensive as to repeal, by implication, local law directing county to appropriate and set aside 10% of county's share of state gasoline excise tax revenue to be distributed to incorporated municipalities; rather, ATETA itself contemplated local variation regarding distribution of proceeds of gasoline excise taxes.

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