SUPREME COURT OF COLORADO

Huber v. Kenna

205 P.3d 1158 (Colo. 2009) · No. 07SC657 · Decided April 20, 2009

SUMMARY

The Colorado Supreme Court held that the 1999 Conservation Easement Tax Credit Act limited the total tax credit for a conservation easement donated by tenants in common to an aggregate of $100,000 per donation. The court concluded that the Department of Revenue properly issued notices of deficiency to taxpayers who claimed credits exceeding that amount and that the Department's regulation imposing the aggregate limit was valid. The court reversed the court of appeals and remanded for further proceedings.

CASE DETAILS

COURT	Supreme Court of Colorado
WRITING FOR THE COURT	Justice Eid; Justice Martinez; Chief Justice Mullarkey
JURISDICTION	Colorado
DECIDED	April 20, 2009
DOCKET	07SC657
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Petition for certiorari review of the Colorado Court of Appeals' decision affirming the district court's summary judgment for respondents in a tax-deficiency dispute.
STANDARD OF REVIEW	Statutory interpretation is reviewed de novo; agency interpretations may receive deference when the statute is ambiguous.
PRECEDENTIAL VALUE	Published, precedential opinion of the Supreme Court of Colorado; concurrence in the judgment only.
PARTIES	Roxy Huber, Executive Director of the Department of Revenue, State of Colorado v. Matthew Kenna, Janet Kenna, Pete Skartvedt, Ann Rilling

TOPICS

income tax · tax credits · tax deficiency · statutory interpretation · administrative law

PRACTICE AREAS

state and local tax · income tax · administrative law · statutory interpretation · real estate

QUESTIONS PRESENTED

1. Whether the 1999 version of Colorado's Conservation Easement Tax Credit Act limited the tax credit for a conservation easement donated by tenants in common to an aggregate $100,000 per donation or permitted each taxpayer to claim up to $100,000.
2. Whether the Department of Revenue's 2003 regulation limiting the total credit generated by a conservation-easement donation by tenants in common to $100,000 was a valid interpretation of the 1999 statute.
3. Whether the 2006 amendment's potential retroactivity presented a live issue after the court interpreted the 1999 statute as already imposing an aggregate $100,000 limit.

HOLDINGS

1. The 1999 statute limited the tax credit for a conservation easement donated by a tenancy in common to an aggregate $100,000 per donation, which the donors were required to divide among themselves.
2. The Department's regulation limiting the total credit generated by a conservation-easement donation by tenants in common to $100,000 was not an improper extension of the 1999 statute and was valid.
3. The retroactivity question concerning the 2006 amendment was moot because the 1999 statute already imposed the aggregate $100,000 limit.

KEY QUOTATIONS

> *“Thus, although each taxpayer who donates a conservation easement may claim a tax credit, the statute expressly limits the amount of that credit to an aggregate total of $100,000 per donation.”* (205 P.3d at 1159)

> *“In sum, given the law governing tenancies in common, the statute's reference to "per donation" necessarily limits the available tax credit to an aggregate of $100,000.”* (205 P.3d at 1162)

> *“We hold that the 1999 version of the statute limited the tax credit given to a tenancy in common for a donated conservation easement to $100,000, and that therefore the Department properly issued the notices of deficiency to the respondents.”* (205 P.3d at 1163)

FACTUAL BACKGROUND

Two married couples purchased a 37-acre property as tenants in common and later donated a conservation easement on the property. They divided the $154,700 value of the easement equally and each couple claimed a $77,350 tax credit, resulting in a combined claimed credit exceeding $100,000. The Department of Revenue later issued notices of deficiency, determining that the 1999 Conservation Easement Tax Credit Act limited the credit to an aggregate $100,000 per donation.

PROCEDURAL HISTORY

The Colorado Department of Revenue issued notices of deficiency to respondents, concluding that their conservation-easement tax credits exceeded the statutory $100,000 limit per donation. The district court granted respondents summary judgment, and the court of appeals affirmed the trial court's ruling, concluding that the Department's regulation limiting a tenancy in common to one aggregate credit was invalid. The Supreme Court of Colorado granted certiorari, reversed the court of appeals, held that the regulation was valid and the notices of deficiency were properly issued, and remanded for consideration of respondents' additional summary-judgment arguments.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for proceedings consistent with the opinion, including consideration of respondents' additional arguments for summary judgment that the district court did not address in its original summary-judgment order.

CASES CITED

- Kenna v. Huber, 179 P.3d 189 (Colo. App. 2007)
- Taylor v. Canterbury, 92 P.3d 961, 964 (Colo. 2004)
- People v. Dist. Court, 713 P.2d 918, 921 (Colo. 1986)
- Smith v. Farmers Ins. Exch., 9 P.3d 335, 340 (Colo. 2000)
- Chevron, U.S.A., Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837, 844 (1984)
- Colo. Dep't of Revenue v. Woodmen of the World, 919 P.2d 806, 817 (Colo. 1996)

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