

# American College of Tax Counsel Files Amicus Brief With the Utah Supreme Court

*Tax lawyers' association filed "friend of the court" brief urging reversal of Utah Tax Commission decision regarding ability of taxpayers to challenge domicile.*

ROCHESTER, NEW YORK, UNITED STATES, February 19, 2021 /EINPresswire.com/ -- The American College of Tax Counsel (the "College") announces the filing on December 10, 2020, of an amicus brief with the Utah Supreme Court in the case of Johnathan Buck and Brooke Buck v. Utah State Tax Commission (No. 20200531-SC). The amicus brief was filed in support of the petition seeking reversal of the Utah Tax Commission's (the "Commission") decision affirming the assessment of Utah income tax based on domicile.

According to the petitioners' brief, the issue in the case is whether the plain language of the Utah Code § 59-10-136 permits individuals to present domicile-related facts to be considered to rebut presumptive domicile pursuant to Utah Code § 59-10-136(2). The Commission interpreted Utah law to prevent the presentation of such facts, effectively creating an irrebuttable presumption. The College's amicus brief argues that this interpretation results in federal constitutional violations of the Due Process Clause, the Commerce Clause, the Privileges and Immunities Clause, and the Equal Protection Clause.

## Background of the Case

The facts leading to the filing of this case are alleged in the petitioners' brief filed with the court. There, petitioners challenged income tax assessments by the Commission on the grounds that they were not domiciled in Utah during the year at issue. Petitioners sought to introduce extensive facts that established domicile in Florida. The Commission held that Petitioners' mere ownership of real property in Utah, for which Utah assigned a property tax exemption and which Petitioners were trying to sell, triggered a statutory presumption of domicile. The Commission further held that the statutory presumption prevented consideration of the evidence that rebutted domicile.

Petitioners argue in their brief that the Commission erred in its interpretation of the Utah Code, which led to its finding that mere ownership of property in Utah constitutes claiming a property tax exemption that thereby establishes Utah domicile. Petitioners further argue that the Commission improperly barred their evidence rebutting the presumption of domicile and that the Commission's statutory interpretation violates federal constitutional rights. The College's

brief asks the Utah Supreme Court to reverse the decision of the Commission on the grounds that its interpretation violates the Due Process, Commerce, Privileges and Immunities, and Equal Protection clauses of the U.S. Constitution.

According to Peter Connors, President of the College, "The Commission's interpretation of the residency provision unduly burdens taxpayers owning property in Utah. We are hopeful that the Utah Supreme Court will reverse the Commission's decision."

### About Amicus Briefs

A brief by Amicus Curiae ("friend of the court"), also known as an amicus brief, allows a person or organization with a strong interest in or important views on the subject matter of a case to file a brief explaining those views and urging the court to rule in a manner consistent with those views. Amicus briefs are often filed in cases of broad public interest and are filed with the permission of the court and typically, as in this instance, with the consent of all the parties in the case.

### About the American College of Tax Counsel

The American College of Tax Counsel is a nonprofit association of tax lawyers in private practice, in law school teaching positions, and in government, who are recognized for their excellence in tax practice and for their substantial contributions and commitment to the profession. One of the chief purposes of the College is to provide a mechanism for input by tax attorneys into the development of U.S. tax laws and policy. The College's brief was submitted by its governing Board of Regents, represented by attorneys Mark K. Buchi, Steven P. Young, and Nathan R. Runyan, of Holland & Hart, LLP in Salt Lake City, UT.

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