

## **EDUCATION LAW NOTES: School Buses Exempted from Property Tax**

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August 21, 2015

While children sing the “Wheels on the Bus Go Round and Round” as they head to school, it is highly doubtful that they ponder who has to pay the taxes for those wheels. Yet, this very question arose recently in the New Britain Tax Court.

The two issues presented to the Court were: (1) Who owns the school buses that serve the school districts and (2) If the school buses are owned by the Board of Education (“BOE”), are they exempt from personal property taxation because they are performing a “public purpose”. The Court ultimately held that the schools buses were owned by the BOE and that they were exempt from taxation. While the decision is straightforward, there are some important takeaways for BOEs to be cognizant of in the future.

Case Summary:

*Region 9 Board of Education et al. v. Town of Bethel (June 26, 2015)*

As to who owns the school buses, the debate hinged on the fact that the BOE financed the purchase of the buses through an entity called TDEF and then DATTCO managed and operated the buses. At first, the Town tried to tax DATTCO as lessee and then abandoned that effort. The Town then attempted to tax TDEF as the owner. The decision focused on whether the agreement between TDEF and the BOE was a financing agreement or a lease agreement. The BOE asserted that it was merely a financing agreement and the BOE was the owner whereas the Town asserted that it was a lease with TDEF, as lessor, and, the BOE, as lessee. In deciding that this was a financing agreement, the Court noted: “A key element of the contract that shows it to be a financing document, is the fact that the contract contains the terms of a financing arrangement setting forth an amortization schedule for the repayment of the loan; the interest rate and payments of principal and interest.” While the BOE prevailed on this issue, it was a highly fact based decision.

After the Court determined that the BOE owned the school buses, the Town attempted to make the argument that the buses were not used for the general public but only the school children; accordingly, the Town asserted that this did not comport with the obligation that the buses be used “for the benefit of the general public”. The Court was not persuaded as this argument did not align with the actual statutory language. Connecticut General Statutes §12-81(4) exempts property “used for a public purpose”, and the Tax Court stated that our Supreme Court has recognized that “[e]ducation in itself serves a public purpose”. In short, the Tax Court concluded that “[t]he public purpose, as expressed in § 12-81(4), is to provide school children transportation.” Thus, both the ownership and use of the buses entitled them to be exempted from property

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taxation.

Lessons To Be Learned:

- **“Keep it Simple Sam”** - If a BOE can purchase school buses without involving any third parties, that is ideal as these potential pitfalls can be circumvented entirely.
- **Avoid Ambiguity** – If a third party must be used to assist with *financing* the purchase, then make it clear in the financing agreement that the BOE is the owner and ensure the financing agreement is drafted in the manner the Court noted. While the Court did not have to address the issue of DATTCO as lessee since the argument was abandoned, it does raise the point that if a BOE does enter into an agreement with a third party to *manage* the buses, again make sure that the agreement is clear that the BOE owns the buses and the role of the third party is only management.

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