

09-223 LEVIN V. COMMERCE ENERGY, INC., ET AL.

DECISION BELOW:554 F.3d 1094

LOWER COURT CASE NUMBER: 08-3410

QUESTIONS PRESENTED:

1. Did the Court's decision in *Hibbs v. Winn*, 542 U.S. 88 (2004), which addressed the scope of the Tax Injunction Act's bar against federal cases seeking to enjoin the assessment and collection of state taxes, eliminate or narrow the doctrine of comity-applied in *Fair Assessment in Real Estate Association v. McNary*, 454 U.S. 100 (1981)-which more broadly precludes federal jurisdiction over cases that intrude on the administration of state taxation?
2. Do either comity principles or the Tax Injunction Act bar federal jurisdiction over a case in which taxpayers allege, on equal protection and dormant Commerce Clause grounds, that their tax assessments are discriminatory relative to other taxpayers' assessments?

CERT. GRANTED 11/2/2009