

PUBLICATION

Spotlight on Mississippi: Update on Playing Field in Tax Cases

June 22, 2012

On June 14, the Mississippi Supreme Court issued a ruling denying the Motion for Rehearing filed by the Mississippi Department of Revenue (Department) in the *W.C. Fore Trucking, Inc. v. Miss. Dep't of Revenue* case, originally decided on March 22, 2012. The Court issued a revised opinion clarifying the scope of review for tax cases in Chancery Court and the standard of review on appeal. This Motion for Rehearing was somewhat unusual because, in this case, the Department prevailed on the merits. However, the Department viewed the scope and standard of review issues as sufficiently important to tax cases to press for an express ruling on the Department's long-standing position that such review in the trial court is limited to a determination as to whether the assessment is "arbitrary and capricious."

A more detailed analysis of the scope of review issue can be found in our [Tax Alert](#) issued June 18, 2012.

Upon the Mississippi Supreme Court's denial of the Department's Motion for Rehearing, the Court's revised opinion included several key statements regarding the scope of review that is to be applied to judicial reviews of tax assessments. The Supreme Court acknowledged that Mississippi Code, §27-77-7(4), cited by the Department does require that "the Chancery Court shall give deference to the decision and interpretation of law and regulations by the [Department] as it does with the decisions and interpretation of any administrative agency." However, the Court was quick to find that such Code sections applied only to the initial trial court's review of law and regulation, not evidence. Even so, the Court made clear that:

The ultimate authority and responsibility to interpret the law, including statutes, rests with this Court. But in determining the most reasonable and appropriate interpretation of a statute, the agency's interpretation is an important factor that usually warrants strong consideration. However, **we do not defer to the agency's interpretation in the sense that we yield judgment or opinion.** [*emphasis added*].

The Court further clarified by stating: "In other words, statutory interpretation is a question of law that is reviewed *de novo*."

Likewise, the Court expressly addressed the lower court's role with respect to factual issues. The lower court is to be the trier of fact.

This reiteration by Mississippi's highest court leaves no doubt that judicial review of a tax assessment is not limited to an "arbitrary and capricious" standard. Instead, tax cases at the trial court are to be tried anew with the Chancellor deciding fact issues and the proper applications of the law to the facts found. This should be good news for taxpayers. If you have any questions regarding this recent decision and its implications, or any other Mississippi tax matter, please contact any of the attorneys in the Firm's Tax Department.