

Supreme Court ruling will make it easier to challenge DOR guidance in court

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A circuit court should've weighed in on whether the Department of Revenue's guidance on a new tax exemption for personal property constituted an unpublished rule rather than deferring to the Tax Appeals Commission first, the state Supreme Court has ruled.

The ruling will make it easier to challenge DOR guidance and other advice in circuit court rather than going to the Tax Appeals Commission, an independent agency the Legislature created to hear disputes between taxpayers and the departments of Revenue and Transportation.

Wisconsin Manufacturers & Commerce didn't agree with a letter DOR sent the business group over its interpretation of the personal property tax exemption and filed the suit, which was dismissed by an Ozaukee County judge

Writing for the majority, Justice Brian Hagedorn found the question of whether the letter constitutes an unpromulgated rule doesn't draw upon the Tax Appeals Commission's expertise in tax matters. Rather, the question "goes to the authority and process by which an agency must adopt and administer the law."

That is best answered by a court, not an agency that "has no unique expertise over whether a letter fits the definition of a rule."

The dispute began after WMC asked Revenue how a new exemption would be applied. The business group argued that “machinery, patterns and tools that are not used in manufacturing” are exempt under the change even if that property is “located on manufacturing property.”

Revenue disagreed, and WMC filed the suit. It argued the DOR letter amounted to an unpromulgated rule and was invalid.

After an Ozaukee County Circuit Court dismissed the suit, an appeals court upheld that ruling.

Though the state Supreme Court was unanimous in believing the circuit court should've heard the case, only liberals Ann Walsh Bradley, Rebecca Dallet and Jill Karofsky fully signed onto Hagdorn's opinion. Meanwhile, Justice Pat Roggensack wrote her own concurring opinion that was joined by fellow conservative Rebecca Bradley.

Read the decision:

<https://www.wicourts.gov/sc/opinion/DisplayDocument.pdf?content=pdf&seqNo=539505>