
Coates' Canons Blog: Durham County v. IBM Credit Corp: The Saga Continues

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Article: <https://canons.sog.unc.edu/durham-county-v-ibm-credit-corp-the-saga-continues/>

This entry was posted on January 14, 2010 and is filed under Finance & Tax, Property Taxes

Local tax officials should add to their reading lists the latest chapter in what may be the state's longest-running property tax saga. Last month the N.C. Court of Appeals ruled in favor of IBM Credit Corporation in its dispute with Durham County over the 2001 tax value of 40,000+ computers and related items that IBM leased to its customers in Durham County. Nearly ten years after the property was listed for taxation, the parties are still about \$50 million apart in their respective valuations. The ruling could cost Durham County close to \$5 million in tax revenue and change the appraisal process for business personal property across the state.

The court first confronted this particular dispute back in 2007, when it concluded that the Property Tax Commission applied an inappropriate burden of proof framework while rejecting IBM's tax valuation appeal. The court sent the case back for a re-hearing at the PTC. After the PTC found in favor of Durham County for a second time, IBM again appealed to the Court of Appeals. This produced last month's decision, in which the court concluded that Durham County had failed to make appropriate valuation adjustments for the computer equipment's functional and economic obsolescence.

The state-wide implications of this ruling stem from the fact that the court rejected Durham County's reliance on the *Cost Index and Depreciation Schedules* issued annually by the N.C. Department of Revenue. These schedules are used by every county in the state to help determine the current market value and therefore the tax value of business personal property. The explanatory memorandum that accompanied the 2001 version of these schedules suggested that they "are only a guide. There will be situations where the appraiser may need to make adjustments for additional functional or economic obsolescence." Nevertheless, as is the case in nearly every county, Durham County applied the 2001 depreciation schedules without adjustment. The court found this approach fatally flawed and sent the case back to the PTC for a *third* hearing to determine what additional amounts of depreciation should have been deducted from the county's tax valuation.

Durham County plans to appeal to the N.C. Supreme Court. But if the decision stands, it could force all 100 counties to reexamine their personal property appraisal methodology. Will counties be able to satisfy the court's concerns simply by increasing the depreciation deductions in the DOR schedules across the board? Or will they be forced to conduct much more individualized examinations of *all* business property? The later approach could greatly increase the cost and time of the annual personal property appraisal process.

The Department of Revenue is sure to offer the counties some guidance once the dispute is finally resolved. But before then, the courts are likely add a few more chapters to this epic saga.

Links

- appellate.nccourts.org/opinions/?c=2&pdf=5120
- heraldsun.net/pages/full_story/push?article=County+loses+ruling+in+IBM+Credit+case%20&id=5048427-County+loses+ruling+in+IBM+Credit+case&instance=homethirdleft
- appellate.nccourts.org/opinions/?c=2&pdf=1686
- www.dorncc.com/publications/costindex.html