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LEGAL UPDATES

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North Carolina Supreme Court Holds De Novo Review Required in Interpreting Agency Rules

Across the country, states have been moving towards increased judicial oversight and reduced reliance on agency interpretations over the past few years either through court decisions, legislation, and even a ballot measure. The North Carolina Supreme Court's recent ruling in *Alvin Mitchell v. University of North Carolina Board of Governors*, No. 121A23 (Oct. 17, 2025) makes North Carolina the 18th state to end judicial deference to state agencies and continues the broad shift in judicial review standards highlighted by the U.S. Supreme Court's decision in *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024).

Like *Loper Bright*, the *Mitchell* ruling was not tax related, but its decision will have an impact on tax matters. Referring to its 1998 decision in *Britt v. N.C. Sheriffs' Educ. & Training Standards Comm'n*, 348 N.C. 573, the *Mitchell* court acknowledged that "a state agency's interpretation of its own rules or regulations can inform a court's judgment and aid in ascertaining the meaning of the law," but "the agency's interpretation is never binding."

In *Mitchell*, the court stated that it "expressly disavow[s] any interpretive rule requiring courts to defer to a state agency's interpretation of state rules and regulations, overrule any previous Court of Appeals case law to the contrary, and instruct all lower courts to apply traditional de novo review to the interpretation of state rules and regulations."

This required de novo approach will impact all North Carolina state agencies, including the Department of Revenue. Taxpayers cannot ignore rulings and regulations legitimately promulgated by the Department of Revenue, but the courts will now recognize such guidelines as merely the executive branch's interpretation of the law and consider that interpretation along with the

taxpayer's interpretation, giving no deference to either. Instead, the courts must employ de novo review in making their determination.

This ruling puts the taxpayer on an even playing field with the department. When deference was previously given to the department, the department's interpretation was typically upheld as long as it was reasonable. This change to a de novo review now creates more of an obligation, and importance, upon the legislature to carefully craft statutes.

What this means to you

Taxpayers with contested tax cases in North Carolina should be aware of the de novo review requirement, which puts all parties on a level playing field, and consider how it impacts their case strategies.

Contact us

If you have questions regarding how this decision impacts your business, contact Smitha Chintamaneni, Bill Schenkelberg, or a member of Husch Blackwell's State and Local Tax team.