

Franklin County Bd. of Educ. v. N.C. Dep't of Revenue, 2010 NCBC 12.

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

WAKE COUNTY

09-CV-20861

FRANKLIN COUNTY BOARD OF
EDUCATION,

Petitioner,

v.

**ORDER ON PETITIONER'S OBJECTION
TO BUSINESS COURT FILING FEE**

NORTH CAROLINA DEPARTMENT
OF REVENUE,

Respondent.

THIS MATTER comes before the Court on Petitioner's Objection and Motion in the Cause Regarding Business Court Filing Fee. Petitioner contends that the additional one thousand dollar filing fee for cases assigned to the Business Court should not be assessed in cases where an aggrieved taxpayer seeks judicial review of a final agency decision in a contested tax case under section 105-241.16 of the North Carolina General Statutes. Petitioner emphasized the distinction between cases where a party voluntarily chooses to designate an action as a mandatory complex business case and cases where filing a Notice of Designation is the party's only option. Respondent, the North Carolina Department of Revenue, declined to file a response to Petitioner's objection, and the time for doing so has expired.

Section 105-241.16 provides that "a petition for judicial review must be filed in the Superior Court of Wake County and in accordance with the procedures for a mandatory business case set forth in G.S. 7A-45.4(b) through (f)." N.C. Gen. Stat. § 105-241.16. Section 7A-45.4(b) requires an aggrieved taxpayer seeking judicial review to designate its petition as a mandatory complex business case by filing a Notice of Designation. N.C. Gen. Stat. § 7A-45.4(b). Once the case "is assigned to a special superior court judge as a complex business case," a one thousand dollar filing fee is assessed on the party who filed the Notice of Designation. *See* N.C. Gen. Stat.

§§ 7A-305(a)(2), (c). The plain language of the “cost” statute makes no provision that would exclude aggrieved taxpayers seeking judicial review from its reach. If the Legislature had intended to exempt petitions for judicial review from the one thousand dollar filing fee, then it could have provided for such.

Based on the foregoing, Petitioner’s Motion is DENIED.

IT IS SO ORDERED, this 28th day of June, 2010.