



# TaxNewsFlash

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## Fourth Circuit: Real property tax impermissibly discriminates against railroads (South Carolina)

The U.S. Court of Appeals for the Fourth Circuit today held that a South Carolina real property tax discriminates against railroads in violation of the Railroad Revitalization and Regulatory Reform Act of 1976 (the “4-R Act”).

The Fourth Circuit reversed and remanded a decision of a federal district court. The case is: *CSX Transportation, Inc. v. South Carolina Dep’t of Revenue*, No. 19-1089 (4<sup>th</sup> Cir. May 20, 2020). Read the Fourth Circuit’s [decision](#) [PDF 55 KB]

### Summary

At issue was whether the South Carolina Real Property Valuation Reform Act (SCVA) impermissibly discriminated against railroads. As enacted in 2006, the SCVA generally limits increases in appraised values of commercial and industrial real properties to 15% within a particular five-year period. The SCVA does not apply, however, to “[r]eal property valued by the unit valuation concept.” Because railroad property is valued by that method, railroads do not benefit from the 15% cap. It is that difference between the way South Carolina law treats railroad property and the way it treats other commercial and industrial property that resulted in this taxpayer challenge.

As today’s decision notes, this was the second time the case was heard by the federal appellate court. In proceedings in 2017, the Fourth Circuit determined that the taxpayer railroad company was in fact challenging a tax. In those proceedings, the Fourth Circuit vacated and remanded the federal district court’s grant of summary judgment for the South Carolina Department of Revenue concerning differences between how ad valorem taxes are determined in South Carolina for railroad property and how they are determined for most other commercial and industrial property.

On remand, the federal district court determined the SCVA was a discriminatory tax, but that South Carolina had provided sufficient justification for such discrimination.

The state offered three justifications for its discriminatory tax scheme: (1) the equalization factor applied to railroad assessments; (2) the combined effect of other tax exemptions applied to rail carriers; and (3) assessable transfers of interest that triggered new appraisals. On appeal, the taxpayer challenged the findings by the district court and argued that South Carolina had failed to justify its discriminatory tax.

The Fourth Circuit today agreed with the taxpayer that South Carolina had failed to justify its discriminatory tax, and therefore rejected all three of the state's arguments. With today's decision, the Fourth Circuit determined that the tax was unlawfully discriminatory, and thus, remanded the case to the district court.

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