

DENIAL OF TAX CREDIT IS APPEALABLE

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A panel of the Commonwealth Court held that the denial by the Department of Community and Economic Development of a tax credit claimed under the Neighborhood Assistance Act is appealable. *Dijas v. Department of Community and Economic Development*, No. 1388 C.D. 2008 (Pa. Commw. Apr. 28, 2009). The Act authorizes the Department to grant a tax credit to a taxpayer that contributes to certain approved improvements or programs in needy communities. In *Dijas*, the Department approved only a portion of a claimed credit, and the taxpayer appealed. The Department moved to quash the appeal, claiming that an award of a tax credit is within the discretion of the Department and therefore the taxpayer had no vested right to the credit.

The language of the act is similar to other such acts, stating that the Department may grant a credit under certain circumstances. Applying the Administrative Agency law, the court disagreed, holding that entitlement to a credit by a qualifying taxpayer is a property right and therefore a denial of the credit is appealable 2 Pa. C.S. §§ 101, 501. The rationale justifying the appeal should apply to other tax credit statutes, enabling a taxpayer to appeal the denial of similar credits. On the merits, the court dismissed the appeal because the taxpayer had not provided information requested by the Department to support the credit.

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