

PA Supreme Court Denies Reconsideration of Decision Addressing Construction Contracts with Non-Exempt Entities

by Sharon R. Paxton

As reported in the February 2012 edition of *PA Tax Law News*, the Pennsylvania Supreme Court reversed the Commonwealth Court's 2009 decisions in *Northeastern Pennsylvania Imaging Center v. Commonwealth* and *Medical Associates of the Lehigh Valley, P.C. v. Commonwealth*, which had held that MRIs and other medical scanning systems installed in the taxpayers' imaging centers became part of the "real estate," so that the taxpayers were entitled to a refund of sales tax paid on their purchase and lease of installed scanning systems. The Supreme Court held that the scanning systems retained their identity as tangible personal property after installation under the test enunciated by the Court in *Commonwealth v. Beck Electric Construction, Inc.*, 403 A.2d 553 (Pa. 1979). See *Northeastern Pennsylvania Imaging Center v. Commonwealth*, 35 A.3d 752 (Pa. 2011). The *Beck* test involves a determination as to whether property is "easily" removable without damage to itself or to the surrounding real estate.

The taxpayers had filed Applications for Reconsideration with the Supreme Court in early January, requesting, among other things, that the Court reconsider and clarify the parameters of the *Beck* test and the interrelationship of that test with the Department of Revenue's regulations. The Court denied the Applications for Reconsideration on March 5, 2012, so no further guidance will be issued by the Court concerning the taxation of construction contracts with non-exempt entities in connection with these appeals.

© 2012 McNees Wallace & Nurick LLC

This document is presented with the understanding that the publisher does not render specific legal, accounting or other professional service to the reader. Due to the rapidly changing nature of the law, information contained in this publication may become outdated. Anyone using this material must always research original sources of authority and update this information to ensure accuracy and applicability to specific legal matters. In no event will the authors, the reviewers or the publisher be liable for any damage, whether direct, indirect or consequential, claimed to result from the use of this material.