

# SUPREME COURT OF VIRGINIA



SUPREME COURT BUILDING  
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## **Granted Appeal Summary**

### **Case**

INTERNATIONAL PAPER COMPANY, A NEW YORK CORPORATION v. COUNTY OF ISLE OF WIGHT  
(Record Number 190542)

### **From**

The Circuit Court of Isle of Wight County; C. Eason, Jr., Judge.

### **Counsel**

Craig D. Bell, E. Duncan Getchell, Jr., Robert W. Loftin, and Michael H. Brady (McGuireWoods LLP) for appellant.

Andrew R. McRoberts, Debra L. Mallory, David C. Tait, and Sean M. Hutson (Sands Anderson, PC) for appellee.

### **Assignments of Error**

1. The trial court erred in holding that IP had not made a prima facie case on Counts I, II, or III, in striking and dismissing those Counts, and in relying upon the conclusion that “new taxes are required to be paid to governmental bodies,” and are generally “political decisions.” Isle of Wight’s imposition of a tax increase upon IP’s M&T, which was the subject of court-ordered and legally mandated refunds and was imposed after IP’s special damages had vested, with the purpose and effect of exacting precisely the refund amount in additional taxes, presented a prima facie case on each of these counts.
2. The trial court erred in holding that IP had not made a prima facie case on Counts IV or V, in striking and dismissing them, and in concluding that “there can [legally] be an ‘effective tax rate’ that is different than the imposed or statutorily established tax rate” for M&T. Isle of Wight’s adoption and application, without statutory authority, of a “credit” against direct tax liability, resulting in disparate direct tax burdens upon one class, including upon IP’s M&T, presented a prima facie case on both of these counts.
3. The trial court erred as a matter of law in determining the purposes of the Clawback Ordinance and Clawback Credit without regard to their effects on taxpayers, and in finding a shortfall in the general fund. On a motion to strike, the trial court must evaluate legislative

purpose by its natural effect, decide no disputes of material fact, view the evidence, with all reasonable inferences drawn, in IP's favor, to determine only whether a prima facie case exists.

4. The trial court erred as a matter of law in relying upon its findings of Isle of Wight's purposes for the Clawback Ordinance and Clawback Credit to grant the motion to strike IP's case-in-chief. Legitimate governmental purposes will not immunize legislative, administrative or executive acts from violating the Virginia Constitution or exceeding statutory power, as applied.