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STATE OF MICHIGAN  
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MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
CHRIS SEPPANEN  
EXECUTIVE DIRECTOR

MICHAEL ZIMMER  
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November 16, 2015

Dear Tax Tribunal Practitioner:

Stipulations for Consent Judgment

In the past, if an error or discrepancy was found in a Stipulation for Entry of Consent Judgment, the Tribunal would often make a courtesy call to the parties to clear up the inconsistency. Presently, when auditing Stipulations for Entry of Consent Judgment (“Stipulations”), if an error or discrepancy is discovered, the Tribunal denies the Stipulation. In doing so, the parties are required to file a new Stipulation and filing fee, if required. As a result, the Tribunal has received much feedback critiquing this practice, specifically, the requirement that the parties must pay a second Stipulation filing fee. The Tribunal has considered the feedback and has determined it is within the interests of efficiency and economy to amend its practice. Effective today, if a Stipulation is denied, the parties will be afforded a 14 day time period to refile a correct Stipulation and no filing fee will be required. If, however, a corrected Stipulation is filed after the 14 day time period, a filing fee, if applicable, will be required.

Small Claims Hearings in 2016

In our September 2, 2015 GovDelivery, we suggested that because the number of small claims appeals declined for 2015, the Tribunal would likely not schedule small claims hearings during the first three weeks of March 2016. After reviewing the 2016 calendar for Board of Review dates, the Tribunal has decided that no small claims hearings will be scheduled during the period February 29, 2016 through April 1, 2016. In addition, the Tribunal will not schedule small claims hearings on July and December Board of Review dates (July 19, 2016 and December 13, 2016, respectively) and will again be taking our annual holiday hiatus from small claims hearings (December 21 – 23 and December 28 – 30, 2015).

Court of Appeals Decisions

1. Michigan Business Tax

*Ashley Capital, LLC v Michigan Department of Treasury*, unpublished opinion per curiam of the Court of Appeals, issued November 10, 2015 (Docket No. 322386)

Treasury appealed an opinion and order denying its motion for summary disposition and granting judgment in favor of Ashley Capital under MCR 2.116(I)(2). The issue was the proper ordering of credits against Michigan business tax liability under MCL 208.1403(1). Treasury acknowledged that the credits provided for in that section, i.e. the compensation and investment



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tax credits, had to be taken before any other credit under the Michigan Business Tax Act (“BTA”), but argued that credits under the Act did not include those that were not created by it, i.e., the brownfield rehabilitation and carryforward credits that originated under the Single Business Tax Act (“SBTA”) and were carried forward into the BTA. The Court of Appeals held that Treasury’s interpretation did not comport with the plain language of the statute: “The BTA expressly provides for the carryforward credits under MCL 208.1401 and for brownfield rehabilitation credits under MCL 208.1437. Both MCL 208.1401 and MCL 208.1437 are contained within the BTA and more specifically within the chapter entitled ‘credits,’ meaning that, quite simply, these are credits ‘under’ the BTA. As such, it is clear that these credits are also subject to the ordering provision found in MCL 208.1403(1).”