



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
CHRIS SEPPANEN
EXECUTIVE DIRECTOR

SHELLY EDGERTON
DIRECTOR

October 4, 2016

Dear Tax Tribunal Practitioner:

E-Filing

When e-filing a petition or answer in Small Claims cases, please do not complete the petition or answer using a form found on our website and then attach it to the e-file. Instead, when attempting to e-file the petition or answer, a fillable document will appear and become a part of the e-filing. If you attach the form, it results in duplicative filings which the Tribunal would like to avoid.

Cases filed prior to February 2014

In its' May 16, 2016 GovDelivery, the Tribunal notified all parties that its original case management system ("Oracle") would no longer be supported as of September 30, 2016. Therefore, the Tribunal has re-docketed all open Oracle cases with new docket numbers issued (e.g., docket number 465555 filed in 2013 in the Oracle system would have been docketed as 13-xxxxxx in the Tribunal's Caseload system. Since that information was released, there has been some confusion regarding the identification of the docket number on subsequent filings with the Tribunal. In this regard, please refer only to the newly assigned docket number when submitting correspondence, motions, responses to orders, etc. to the Tribunal.

Filing "Judge's Copies"

When submitting paper motions, responses, etc. to the Tribunal, many practitioners submit a "Judge's Copy" with the originals, although no Tribunal rule requires the parties to do so. Please be advised that in an effort to save some trees, reduce recycling requirements, and to save space, the Tribunal requests that parties submitting said documents by paper no longer submit Judge's Copies to the Tribunal, unless the Tribunal or a Tribunal Member has specifically made such a request. For example, the Tribunal's standard Prehearing Conference Order requires the parties to provide two (2) copies of all exhibits to be introduced at trial to be provided to the Tribunal on the day of the trial. That requirement will continue.

Court of Appeals Decisions

Michigan Business Tax

Johnson v Michigan Dep't of Treasury, unpublished opinion per curiam of the Court of Appeals, issued September 13, 2016 (Docket No. 327299).



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
CHRIS SEPPANEN
EXECUTIVE DIRECTOR

SHELLY EDGERTON
DIRECTOR

Petitioner appealed the Tribunal's order denying his motion for reconsideration of its Final Opinion and Judgment, which affirmed the Department's denial of his principal residence exemption for the 2009, 2010, 2011, and 2012 tax years. Petitioner argued that (1) the resulting supplemental tax bills were void because they were not timely issued and that bringing them to the Tribunal's attention was sufficient to appeal them, (2) the Department could not deny his exemption for three of the tax years at issue because it failed to conduct required audits for those years, and (3) he should be allowed to file for conditional rescission of the exemption. The Court of Appeals held that (1) Petitioner failed to invoke the Tribunal's jurisdiction over the tax bills because an appeal requires the timely filing of a written petition, (2) the plain, unambiguous language of MCL 211.7cc(8) does not condition the Department's authority to assess delinquent taxes, interest, and penalties for a denied exemption for the three previous calendar years on its requirement to audit annually under MCL 211.7cc(14), and (3) MCL 211.7cc(5) required the Tribunal to reject any conditional rescission claims because the house was not vacant.

Andersons Albion Ethanol, LLC v Michigan Dep't of Treasury, __Mich App__; __NW2d__ (2016).

The Department appealed the Tribunal's Final Opinion and Judgment, which rejected the Department's interpretation of the MBTA's renaissance zone business activity factor because it was inconsistent with its interpretation of an analogous provision in the former SBTA and applying the formula as written led to an unquantifiable result. The Court of Appeals held that the Tribunal erred in disregarding the Department's interpretation because it was not contrary to statute and there were no other cogent reasons for overturning it. The Court reasoned that the Legislature, which was aware of a method for doing so, could have provided for the altering of the formula and it did not. The Court also found the Department's interpretation sensible and more consistent with rewarding investment in renaissance zones.

Denton v Michigan Dep't of Treasury, __Mich App__; __NW2d__ (2016).

Petitioners appealed the Tribunal's Final Opinion and Judgment, which denied their request to waive interest levied in conjunction with a principal residence exemption denial for the 2010, 2011, 2012, and 2013 tax years. Petitioners sought relief under MCL 211.7cc(8), which provides for a waiver of interest when the denial and corresponding tax is the result of an assessor's error or failure to rescind. The Court of Appeals held that the Tribunal committed an error of law when it determined that it could not grant an interest waiver request where a Treasury Form 2602 ("Request to Rescind Principal Residence Exemption") was not filed. The Court reasoned that the Legislature's use of the term "rescission form" elsewhere in the PRE statute established that when it wishes to condition the effect of a statutory provision on the filing of a prescribed form, it does so in plain words. Thus, had the Legislature wanted to restrict waiver of interest to when



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
CHRIS SEPPANEN
EXECUTIVE DIRECTOR

SHELLY EDGERTON
DIRECTOR

an owner has used form 2602 to request a rescission, MCL 211.7cc(8) would refer to the assessor's failure to rescind an exemption upon the filing of "a rescission form prescribed by the department" instead of simply a "writing."

McNew v Thornapple Twp, unpublished opinion per curiam of the Court of Appeals, issued September 22, 2016 (Docket No. 327944).

Petitioner appealed the Tribunal's Final Opinion and Judgment, which affirmed Respondent's uncapping of taxable value for the 2013, 2014, and 2015 tax years. Petitioner argued that a transfer of ownership did not occur because the transfer of the property at issue to her parents' trust following the death of her father was basically a transfer to their children, and thus a transfer between parties related "by blood or affinity to the first degree." The Court of Appeals noted its doubt on this argument, but concluded that it need not reach that issue because the noted exception applies only to conveyances made between December 31, 2013 and December 30, 2014, and the conveyance at issue occurred on April 16, 2012.