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

SHELLY EDGERTON
DIRECTOR

September 6, 2016

Dear Tax Tribunal Practitioner:

Date of Filing

Recently, an issue was raised regarding when a petition is considered filed when there is both a postmark stamp and a metered stamp on the envelope. The Tribunal has determined the metered stamp is not the date by which a document is considered filed. The Tribunal's rules of practice and procedure specify that "[s]ubmissions by mail are considered filed on the date indicated by the *U.S. postal service postmark* on the envelope containing the submissions." TTR 219(5). (Emphasis added.) Because the Tribunal's rule unambiguously requires evidence of a USPS postmark in order to establish the filing date of the submission, metered stamps will not be utilized to determine the filing date of a submission. Further, absent a U.S. postal service postmark, or if the U.S. postal service postmark is illegible, the Tribunal will determine the filing date to be the date such filing is received by the Tribunal. R792.10104(2)

In another filing date issue, the Tribunal has determined that where a metered or printed label includes tracking information, the Tribunal will review that information to determine when the envelope or package was received by the U.S. postal service and that receipt date will constitute the filing date.

Small Claims Appeals

Although ET appeals filed for the 2016 tax year increased slightly, Small Claims appeals for 2016 decreased from approximately 4,400 to approximately 2,600. This decline in new Small Claims appeals will allow the Tribunal to again refrain from scheduling hearings during the month of March (the Tribunal tentatively has decided to schedule no Small Claims hearings during the period February 27, 2017 through March 31, 2017). Further, because the Tribunal tries to schedule 12 to 14 appeals during each day of scheduled hearings, and because certain areas of the state may not have experienced a sufficient number of appeals to fill a complete day of hearings, some Small Claims appeals may be heard telephonically during the next eleven months.

Court of Appeals Decisions

Tribunal Jurisdiction

Johns Family Limited Partnership and Burgess Company, LLC v Charter Township of Chesterfield, Linda Hartman, and Dean Babb, unpublished opinion per curiam of the Court of Appeals, issued August 2, 2016, (Docket No. 326649)



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Plaintiffs appealed the circuit court's order granting summary disposition in favor of defendants pursuant to MCR 2.116(C)(4). The Court of Appeals held that the circuit court correctly concluded that it lacked jurisdiction over plaintiff's claims, as while they had styled their complaint as a violation of 42 USC 1983, it lacked an allegation that rose to the level of a due process violation. "Plaintiffs are not challenging how the taxes were used or the constitutionality of the statute that authorized the assessments Rather, plaintiffs challenge the validity of the taxable value of their land and how it was calculated. That issue required a factual determination regarding the accuracy of the taxable values and the method of calculating them, which is solidly within the tax tribunal's area of expertise." Further, the Tribunal's jurisdiction is determined by the subject matter of the proceeding, not the type of relief requested.

Poverty Exemption

Spranger v City of Warren, unpublished opinion per curiam of the Court of Appeals, issued August 25, 2016 (Docket No. 326964).

Petitioner appealed the Tribunal's Final Opinion and Judgment on Remand, which denied her request for a poverty exemption and granted summary disposition in favor of Respondent. The Court of Appeals held that (1) the Tribunal correctly determined that collateral estoppel prevented Petitioner from relitigating the issue of her occupancy of the subject property as a principal residence in the tax year at issue because that issue was addressed and decided in another case, and (2) this determination undermined Petitioner's request for a poverty exemption because to be eligible under MCL 211.7u, an individual must "occupy as a principal residence the property for which an exemption is requested."

Valuation

Huizenga v City of Grand Rapids, unpublished opinion per curiam of the Court of Appeals, issued September 1, 2016, 2016 (Docket No. 327682).

Petitioner appealed the Tribunal's Corrected Final Opinion and Judgment. Petitioner argued that the Tribunal's valuation was not based on competent, material, and substantial evidence because (1) no reasonable person could find that a property that sold for \$185,000 in an arm's-length transaction is actually worth \$284,390, and (2) the Tribunal adopted, without explanation, the City's adjustments. Because the Tribunal failed to make an express finding as to whether the property sold in an arm's-length transaction and provided no reasoning in support of its wholesale adoption of the City's adjustments, which were given only a cursory explanation by the city assessor, the Court of Appeals was unable to determine the merit of Petitioner's claims. The judgment was vacated and remanded accordingly.