

November 16, 2005

Dear Tax Tribunal Practitioner,

Based on the comments received, the Tribunal has revised Tribunal Notice 2005-7 MOTION PRACTICE – ORAL ARGUMENT. The primary change is the requirement that the party requesting oral argument submit a “notice of hearing.” This revised Tribunal Notice is again being issued for a short public comment period before it is finalized.

With the beginning of a new fiscal year, the Tribunal has taken stock of last year’s successes, challenges, and failures. The strategic objective for the last fiscal year was to further one aspect of the Tribunal’s vision by making the Tribunal “meaningfully accessible.” Several goals were established: (1) continue stakeholder input; (2) increase Tribunal member interaction with local jurisdictions by having Tribunal members hold more small claims hearings; and (3) streamline the Small Claims hearing process.

Last year’s most obvious success was the Tribunal’s burgeoning partnership with the Michigan Association of Certified Public Accountants (MACPA). While the Tribunal has regularly provided training to the Michigan Assessors Association, it has not provided training to other taxpayer representatives. This year the Tribunal provided roughly a half dozen presentations to the MACPA, which culminated in two one-day seminars on taxes and procedures in the Tribunal’s Small Claims Division. The next seminar is scheduled for December 7 in Grand Rapids.

Although Tribunal members conducted over 28% of all Small Claims hearings held last year, the Tribunal faced unexpected challenges in the conducting of Small Claims hearings by other judges. These challenges have principally been the loss of several highly productive and qualified contract referees and the use of attorneys from the State Office of Administrative Hearings and Rules. This transition required the development of entirely different internal procedures and significant training of the administrative law judges. The transition was far from perfect. While the number of hearings held by Tribunal Members is likely at a historic high, this too impacts case processing. The Tribunal continues to seek solutions that will both elevate the quality and timeliness of its Small Claims decisions and ensure that they can be handled by a process less susceptible to the outside challenges the Tribunal now experiences.

The Tribunal’s greatest area of success has been in the streamlining of its procedures. As a result of several Tribunal Notices issued last year – such as the dramatic revision of the defects and default procedure, the use of prepared orders and proposed changes to extensions of time – cases are being processed more quickly than previous years. The bulk of the recent June filings were, for example, docketed by August. All 2005 Small Claims appeals will be ready for the scheduling of a hearing this year. The same simplifications may also account for a significant increase in issuance of consent judgments. The Tribunal has provided greater deference to the parties in entering stipulations and has experienced a 77% increase in consent judgments in fiscal year 2004 and a 36% increase in consent judgments this last fiscal year. Over 80% of the consent judgments were issued within 90 days of the receipt of the stipulation. This past summer the

Tribunal has been scheduling telephonic Small Claims hearings, which has saved time and money for both the Tribunal and the parties.

The Tribunal has now taken a step to ensure greater accessibility through legislation. We are currently working with the Legislature to implement a mediation process at the Tribunal, increase the jurisdictional level for small claims appeals, and allow the parties greater options in selecting a Small Claims hearing location.

Many of these improvements required additional human resources. Yet, the Tribunal has, since the late 1990's, regularly lost employee positions and is at a level that is the lowest in its thirty-year history. To address this issue, the Tribunal has revised its student program and partnered with graduate and undergraduate schools to provide a hands-on learning experience at the Tribunal. We are working with the MACPA to develop an internship program for fifth-year accounting students and have already begun working with masters programs in tax. As a result, not only has the number of students doubled over the last year but the quality of applicants has improved. Students have not only assisted in researching opinions, but in preparing files, conducting review of pleadings, preparation of orders for the members and in revising the web site. While all of this has improved the Tribunal's productivity, it has also begun something equally important to Tribunal members: setting the groundwork for a different legacy.

The revision of the web site is near completion and will have several new features that we hope will assist you. Some of the features will provide you access to more of the Tribunal's statistical information. Other features will provide updates on major litigation, such as the utility personal property cases. Electronic copies of the "global settlement" agreement in the utility personal property litigations are currently on the website. The remaining improvements will be better graphics, a full discussion of our student program, and a site that is more user-friendly. Stay tuned.

While all these accomplishments are important, the Tribunal has determined to change the focus of its energies for the current fiscal year from a predominate focus on property tax appeals to improving the adjudication of state tax appeals. These are tax appeals involving the single business tax, sales and use taxes, motor fuel taxes, income tax, etc. For some time the Tribunal has been concerned that the percentage of Entire Tribunal appeals involving state tax claims has steadily fallen over the last five years to under 3% in 2003 and has remained under 4% for the last two years. To the extent these figures reflect concern that the Tribunal is not a viable forum to adjudicate state tax appeals, we desire to improve. To begin the process, we have sought advice from frequent representatives in state tax disputes and in December an on-line survey will be available. The results of that survey will assist us in setting some strategic objectives for this year.

We understand that despite our desire and efforts to improve the Tribunal, change is never perfect. We will continue to work on the initiatives we started last year. Yet we are encouraged by the willingness of litigants and professional organizations to make the Tribunal the "best." Our greatest source of ideas comes from you. Thanks and we look forward to your partnership this year.

If you would like to receive these messages, simply send an e-mail message to Marijo Wakley at mewakle@michigan.gov with “SUBSCRIBE” in the subject line. To unsubscribe, simply reply to this e-mail with the word “UNSUBSCRIBE” in the subject line.

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