



RICK SNYDER
GOVERNOR

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

MICHAEL ZIMMER
DIRECTOR

February 23, 2016

Dear Tax Tribunal Practitioner:

Filing Dates for Petitions

The Tribunal would like to remind property owners and/or their representatives that Tuesday, May 31, 2016, is the deadline for filing valuation appeals involving commercial real property, industrial real property, developmental real property, commercial personal property, industrial personal property, or utility personal property valuation appeals.

July 31, 2016, is the statutory deadline for filing 2016 petitions with the Tribunal for property classified as agricultural real property, residential real property, timber-cutover real property, or agricultural personal property. As you may be aware, this year July 31, 2016, falls on a Sunday. As a result, the Tribunal will accept petitions postmarked or electronically filed on or before August 1, 2016, as timely filed.

Adding 2016 Tax Year to Pending Appeals

The Tribunal reminds you that pursuant to TTR 271(3), tax years subsequent to the tax year initially under appeal are automatically included for small claims appeals and exemption appeals (including those pending in the ET division). Consistent with past practice, beginning with small claims hearings and exemption appeals held on or after April 1, 2016, the Tribunal will automatically include the 2016 tax year. Therefore, if you are participating in a small claims hearing or an exemption hearing to be held on or after April 1, 2016, that was initiated during 2015, you must submit to the opposing party and the Tribunal any valuation evidence (if a valuation appeal) or other evidence relating to the 2016 tax year at least 21 days prior to the date of the hearing.

Stipulations

Because the assessment roll is not finalized by the March Board of Review until the end of March, stipulations that include the 2016 tax year will be denied if submitted before April 1, 2016.

Redacting Confidential Information

Please remember that it is the parties' responsibility to redact all confidential and personal information from all documentation filed with the Tribunal.



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Court of Appeals Decisions

Property Tax

Main Street Business Center at Celebration Village, LLC v City of Grand Rapids, unpublished opinion per curiam of the Court of Appeals, issued February 9, 2016 (Docket No. 323927).

Petitioner appealed the Tribunal's Final Opinion and Judgment, which affirmed the true cash, state equalized and taxable values on the roll for the tax years at issue. The Court of Appeals held that the Tribunal's decision was not supported by competent, material, and substantial evidence, as the relevant record cards evidencing Respondent's cost-less-depreciation approach to value were not submitted, and the subsequent year card that was provided did not fully display the value calculations in accordance with the Tribunal's own administrative guidance. "And none of the evidence presented by either party, or the Tribunal's own calculations, resulted in the values ultimately adopted by the Tribunal. The approach employed by the Tribunal further ignored the narrow scope of the issues presented by the parties and the parties' agreement that the income approach was the appropriate methodology to be employed." Ultimately, the Tribunal failed to employ sound legal reasoning when it discarded its own detailed analysis of the evidence presented at the hearing in an attempt to avoid a value determination that exceeded both the current values and those indicated by the evidence, and adopted values that were not supported. In vacating the decision and remanding for further proceedings, the Court of Appeals noted that Tribunal's findings concerning the property's leasable square footage were supported, but that inclusion of an effective tax rate in the capitalization rate is generally not appropriate for triple-net leased property, and that the Tribunal has previously stated as much. "Therefore it is unnecessary to add the effective tax rate (even adjusted for vacancy) to the capitalization rate if the vacancy rate, tax rate, and tax reimbursements are appropriately accounted for in the NOI." In the event that it wished to utilize an effective tax rate on remand, the Court urged the Tribunal to explore whether it is appropriate to remove property tax expenses from the NOI without also removing the property tax reimbursement income, given that the latter appears to be accounted for in the vacancy rate.

Single Business Tax

Alticor Inc v Dep't of Treasury, unpublished opinion per curiam of the Court of Appeals, issued February 9, 2016 (Docket No. 323350).

Alticor and the Department cross-appealed the Court of Claims order granting in part and denying in part Alticor's motion for summary disposition. At issue was whether reimbursement by Alticor's subsidiaries for shared employees qualified as "sales" under the SBTA, and whether payments Alticor received pursuant to a license for use of its list of Independent Business Owners should be construed as royalties. Alticor argued that the reimbursements were not sales



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because (1) the receipts were merely a bookkeeping entry to record the pass-through payment of employees and did not constitute actual receipts, (2) the amounts received were reimbursement rather than consideration because there was no profit, and (3) the services it provided to its affiliates were not business activities because they were not done with the object of gain. The Court of Appeals held that the amounts at issue, which were recorded in Alticor's books, represented actual obligations of the affiliates that qualified as amounts received. Further, the amounts received qualified as consideration, as Alticor received payment by way of a debit from the affiliate accounts in exchange for services provided by the shared employees. "The fact that the service was provided at cost is not relevant because no definition of consideration requires that the underlying transaction or exchange must result in a profit." The Court also held that the reimbursements were for the performance of business activities because the SBTAs does not require a sale of services to be derived from the taxpayer's main line of business, and Alticor indirectly benefited from the services it provided to its affiliates, in that it alleviated the need for the affiliates to hire employees and provide duplicative services. As for Treasury's argument that payments to Alticor by its affiliate were sales and not royalties, the Court held that "a royalty could come from a percentage of the receipts from the use of property or a share of the profit resulting from another's use of the property." They "do not have to be payments made in the form of a product or proceeds from the sale of a product," and because "the payments at issue were based on a percentage of gross sales and were facilitated by use of the licensed property," they were royalties.