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STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
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Dear Tax Tribunal Practitioner:

### Stipulations

The Tribunal's administrative staff has indicated that it continues to receive numerous telephone inquiries regarding the Tribunal's policy about submission of Stipulations by the parties. The Tribunal reiterates its policy communicated in July 2012 and March 2013, that the Tribunal will no longer adjourn a Small Claims hearing based on written notification of a settlement (i.e., stipulation) unless a copy of the stipulation, signed by all parties, is faxed to the Tribunal no later than 4:30 p.m. on the business day immediately preceding the day of the scheduled hearing. More specifically, failure to submit a faxed copy of the signed stipulation by 4:30 p.m. on the preceding business day will require the parties to attend the hearing scheduled for the next day even though the case has settled. Further, failure to attend the hearing could result in the dismissal of the case or the conducting of a default hearing.

Similarly, the Tribunal will no longer adjourn an Entire Tribunal prehearing conference or hearing based on written notification of a settlement (i.e., stipulation) unless a copy of the stipulation signed by all parties is faxed to the Tribunal no later than 4:30 p.m. on the business day immediately preceding the day of the scheduled prehearing conference or hearing. More specifically, failure to submit a faxed copy of the signed stipulation by 4:30 p.m. on the preceding business day will require the parties to attend the prehearing conference or hearing scheduled for the next business day even though the case has settled. Further, failure to attend the prehearing conference or hearing could result in the dismissal of the case or the conducting of a default hearing.

### Caseload/E-Filing Update

The Tribunal's new case management and e-filing system have been live for a little over a month now. So far, the Tribunal has seen much success in the use of these new systems; however, as with all new technology, there have been some glitches that we would like to address.

1. When reviewing a case's information on the Tax Docket Lookup webpage, you may notice that there are several repeated lines. If a party electronically files

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the same document multiple times, it will appear on the public actions log as many times as the document is filed. Unfortunately, the Tribunal is not always able to delete these extra lines.

2. In a few instances, e-filing users' credit cards have been charged multiple times for filing fees. Please be patient during the credit card payment process; pressing the submit button multiple times may result in multiple charges. If you believe you have been overcharged, please call the Tribunal and we will assist you in straightening out this issue.
3. Recently, some e-filing users have been encountering error messages regarding the calculation of fees when attempting to file documents in which no fees are due. The Department's information technology team has reviewed this issue and updated the database; thus, this issue should be remedied.
4. With respect to the filing of Entire Tribunal petitions and answers, please fill out the appropriate Case Information Sheet and when asked to upload the pleading, please upload all corresponding documents in one file (i.e. cover letter, petition or answer, appearance, etc . . .).

### Small Claims

The Tribunal will not be conducting any Small Claims hearings during the time frame of March 10 – March 21 in order to allow Local Units of Government the ability to focus on March Boards of Review.

### Discovery Materials

Parties have once begun submitting discovery materials (i.e., requests and responses) to the Tribunal for inclusion in their case files. Such materials should only be submitted to the Tribunal if they are being offered as exhibit at the time of hearing or they are attached to a motion to compel or a response to a motion to compel. If they are not being offered as an exhibit or attached to a motion to compel or response to a motion to compel, they will be discarded.

### Recent Court of Appeals Decisions

The Tribunal believes that certain Court of Appeals decisions (either published or unpublished) may have general appeal to the public; therefore, we will periodically provide a short summary of such decisions as applicable.

1. *Donald E. Lewallen and Ronald L. Lewallen v Porter Township*, unpublished opinion per curiam of the Court of Appeals, issued February 20, 2014, (Docket No. 312677). In February 2004, Petitioners' parents executed a quit-claim deed transferring property to petitioners as "tenants in common, each receiving an undivided one-half (1/2) interest." After Respondent notified Petitioners that the 2004 transfer required the

“uncapping” of the property’s taxable value, Petitioners’ parents filed a corrective deed stating that their intent was to transfer the property to Petitioners and their parents as joint tenants with rights of survivorship. The Court of Appeals agreed with the Tribunal that in this case the corrective deed was not made to correct a good-faith clerical error, but was issued to avoid the unintended tax consequences of the transfer of ownership, and the uncapping of taxable value was correct.

2. *Sal-Mar Royal Village, LLC v Macomb County Treasurer*, \_\_ Mich App \_\_; \_\_ NW2d \_\_ (2014). The Tribunal issued a Consent Judgment in a case properly before the Tribunal which included a waiver of interest provision. Macomb County refused to recognize the waiver of interest provision in the Consent Judgment and the property owner petitioned to Circuit Court for a writ of mandamus to enforce the waiver of interest provision. The Circuit Court granted summary disposition to the County, but the Court of Appeals held that the Circuit Court should have granted the property owner’s writ of mandamus. Further, the Court of Appeals held that the Tribunal has the authority to waive interest on delinquent taxes. Upon appeal, the Michigan Supreme Court remanded the case back to the Court of Appeals to determine whether the Tribunal has “exclusive jurisdiction” to enforce its own orders. In this published decision, the Court of Appeals held that the Tribunal does not have exclusive jurisdiction and that its orders can be enforced in Circuit Court.
3. *Mark Gatt v Marion Township*, unpublished opinion per curium of the Court of Appeals, issued February 11, 2014, (Docket No. 313656). In an appeal to the Tribunal for the 2009 and 2010 tax years, The Tribunal determined the true cash values of the subject property to be \$465,000 and \$433,400, respectively, reduced from the values on the assessment roll of \$955,000 and \$901,200 for 2009 and 2010. Respondent increased the values on the assessment roll for 2011 and 2012 to \$750,000 and \$806,800. Petitioner appealed the values for the subject property for the 2011 and 2012 tax years and the Tribunal concluded that Respondent’s values were appropriate. The Court of Appeals held that although the Tribunal is obligated to independently value property on the basis of the evidence presented, the doctrine of res judicata applies to decisions of the Tribunal. Recognizing that the Tribunal has a duty to make an independent determination of value for the 2011 and 2012 tax years, the Court of Appeals stated that “it must do so while giving respect and finality to the prior decision of the Tribunal that established the subject property’s value for tax year 2010 at \$433,400.” The Court of Appeals stated that because the Tribunal failed to explain the large increase in value from 2010 to 2011, it calls “into doubt whether the current valuation is support<sup>4</sup>ed by competent and substantial evidence.” In reversing the

Tribunal's conclusion of value for 2011 and 2012, the Court directed the Tribunal to "give due respect to the finality of the established 2010 valuation, and endure that its valuation is supported by competent and substantial evidence." The Tribunal believes that the Court of Appeals fails to recognize the Tribunal's obligation to independently determine the value of a property as of a specific assessment date based on the evidence and testimony presented in that case. Thus, if the Tribunal reduced the value of the subject property in *Gatt* for 2009 and 2010 because Respondent failed to present any evidence or less than credible evidence of value and accepted Petitioner's evidence as credible, but in 2011 and 2012, Petitioner failed to present credible evidence and Respondent did, then the Tribunal does not believe it could make an independent determination of value for 2011 and 2012 based on the evidence presented; instead, the Court of Appeals seems to require the Tribunal to take the prior years' valuation into consideration even though the evidence in one case substantively differs from the evidence presented in the subsequent case.

The Tribunal welcomes your comments and questions on this issue or on any other issue of interest to you. Please email the Tribunal at [www.michigan.gov/taxtrib](http://www.michigan.gov/taxtrib) or call the Tribunal at (517) 636-7551.