



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
MICHAEL ZIMMER
EXECUTIVE DIRECTOR

STEVEN ARWOOD
DIRECTOR

April 8, 2014

Dear Tax Tribunal Practitioner:

The Tribunal is Moving

A reminder to all who practice before the Tribunal that the Tribunal will be moving from its current Dimondale location to its former location in the Ottawa Building, 611 W. Ottawa, in downtown Lansing, on April 21, 2014. Although Tribunal offices will be located on the 4th floor of the Ottawa building, the courtrooms to be used for Tribunal purposes will be the same courtrooms previously used by the Tribunal on the 2nd floor of the Ottawa building. Although the Tribunal's mailing address (P.O. Box 30232, Lansing, MI 48909) will remain the same, the Tribunal's main telephone number will change to (517) 373-4400, and its fax number will change to (517) 373-4493.

New E-Filing System

On February 3, 2014, the Michigan Tax Tribunal implemented an e-filing system for the electronic filing of pleadings (i.e., petitions and answers) and other documents for appeals filed with the Tribunal.

As with any new system, we have encountered problems and there have been repeated inquiries regarding a few issues that we wanted to highlight:

1. Electronic Payments:

- a. In order to pay a required filing fee, you must do so with a credit card (Visa, MasterCard, and Discover). Unfortunately, the e-filing system cannot accept any other type of payment and the Tribunal will not issue an invoice in lieu of payment.
- b. Originally, when submitting your credit card payment, you were required to provide the address associated with the credit card account *exactly as reflected in your credit card account*; otherwise the payment would be rejected. However, there have been many issues with rejected payments. As such, the Tribunal has relaxed this requirement and, although you are still required to submit the full address associated with the credit card, only the zip code will be authenticated for payment purposes.

LARA is an equal opportunity employer/program.
Auxiliary aids, services and other reasonable accommodations are available upon request to individuals with disabilities.

MICHIGAN TAX TRIBUNAL
P.O. BOX 30232 • LANSING, MICHIGAN 48909
www.michigan.gov/taxtrib • (517) 636-7551

2. Electronic Service of Documents:

- a. When a party provides a valid e-mail address, the Tribunal will electronically service all documents associated in that case. Please make sure you check your junk mail folder and add “taxtrib@michigan.gov” to your safe e-mail list.
- b. However, you may receive e-mails from individual staff members of the Tribunal. In those cases, please do not respond to the e-mail. If you do respond to an individual’s e-mail address, **you will not receive a response**. You **must** direct all inquiries to taxtrib@michigan.gov or call the Tribunal directly.
- c. Due to a computer glitch with our outgoing e-mails, some documentation, issued by the Tribunal, was not properly electronically served. As such, the Tribunal will be reissuing documentation to parties in some cases. You may receive a letter and documentation from the Tribunal with a revised issue date. If you have any questions, please feel free to call the Tribunal.

3. Electronic Filing:

- a. When electronically filing an Entire Tribunal petition, please note that you must use the ET Case Information Sheet *and you must upload the actual petition* prior to submitting the pleading.
- b. E-Filing Accounts:
 - i. When creating your e-filing account, please note that the address used in your account must match the address reflected in the petition in order for your case to properly appear in the “My Cases” section. *Your case must be reflected in the “My Cases” section to submit documents other than the petition and answer.
 - ii. Assessors and Agents for local units of government must create their e-filing account as a representative, and not as a respondent.

Finally, please refer to our E-Filing Frequently Asked Questions located in the “What’s New” section of our website for more information.

Fees for Valuation Disputes

Tribunal Rules (TTR 217) provide that a Petitioner shall pay a fee based on the value in contention, which is defined as the greater of the difference between the assessed value established by the board of review and the state equalized value claimed by petitioner or the difference between the taxable value established by the board of review and the taxable value claimed by petitioner. Filing fees increase as the value in contention increases. Because some petitioners have understated the value in contention claimed on their petitions when compared to the value in contention claimed on their prehearing statements (presumably based on filed

valuation disclosures), and therefore, in some cases, failed to pay the appropriate fee, effective immediately, where applicable, the Tribunal will place a petitioner in default for failure to pay the appropriate fee and require payment of the additional fee within 14 days to cure the default. This reconciliation of applicable fees will occur at the Prehearing Conference. Similarly, if a Stipulation is received by the Tribunal whereby the parties agree to an assessed or taxable value lower than claimed by Petitioner in the initial petition that would result in a larger fee than initially paid by Petitioner, the Stipulation will be placed in abeyance pending payment of the additional fee by Petitioner.

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. *John Sheridan v. City of Westland*, unpublished opinion per curiam of the Court of Appeals, issued March 20, 2014 (Docket No. 312675). In a valuation appeal for tax year 2010, the Tribunal determined that Petitioner's comparable sales analysis was incomplete and the cost-less-depreciation valuation approach was the most reliable indicator of value. Petitioner appealed, asserting that the Tribunal ignored 3 of its 5 comparable properties, resulting in "inaccurate findings of fact." The Court of Appeals stated that the Tribunal's review of the properties is not a matter of inaccurate findings, but one of incompleteness. Because the standard of review is inaccuracy, the Tribunal's findings and conclusions do not need to include consideration of every piece of evidence entered or argument raised. If evidence was excluded, the Petitioner has the option to bring this to the Tribunal's attention by filing exceptions and a motion for reconsideration. In this case, the Petitioner did just that, and the Tribunal upheld its previous determination. The Court of Appeals noted that scope of review of the Tribunal's decisions is limited to whether the Tribunal made an error of law or adopted a wrong principal, absent disputed facts or alleged fraud. If the Tribunal's findings are supported by "competent, material, and substantial evidence on the whole record," the court generally defers to the Tribunal's selected valuation approach and the findings are final. The Tribunal's decision will be supported by competent and substantial evidence where it is within the range of the evidence presented by the parties.
2. *Marie De Lamielleure Trust, by Richard J De Lamielleure, trustee v. Department of Treasury*, unpublished opinion per curiam of the Court of Appeals, issued March 20, 2014 (Docket No. 313753). During her lifetime, Marie had executed a quitclaim deed to herself as trustee of Petitioner,

and received a PRE on the property. When Marie died, Petitioner filed the required request to rescind the PRE, but the assessor did not remove the PRE believing that it was not necessary to do so until the property was sold. Shortly thereafter, the Department of Treasury audited Petitioner, determining that the Petitioner was ineligible for the PRE received on the property. An assessment of additional tax resulted, with penalties and interest excluded as the assessor was responsible for the mistake. See MCL 211.7cc(8). Petitioner argued that the statute did not apply here, as Petitioner no longer claimed the PRE after requesting it be rescinded in 2004. The Tribunal agreed, and reinstated the PRE. The Court, however, noted that under the statute, when an assessor fails to rescind a PRE as requested and it is later determined that the PRE should have been removed or denied, the additional tax should be assessed but not penalties or interest. Here, Marie had claimed the PRE during her lifetime. After her death, the Petitioner benefitted from the PRE claim, despite the unsuccessful attempt to rescind it. As such, the Tribunal's determination to reinstate the PRE was an error of law, and the assessment of delinquent taxes is warranted.

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 or call the Tribunal at (517) 636-7551.