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GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

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DIRECTOR

November 3, 2022

MTT 2022-12

## **TRIBUNAL OFFICES CLOSED ON ELECTION DAY AND VETERANS DAY**

### **SYNOPSIS OF PROPOSED MTT RULE CHANGES**

#### **Election Day and Veterans Day State Holiday Office Closures**

State offices, including that of the Michigan Tax Tribunal, shall be closed on Tuesday, November 8, 2022, for Election Day, and on Friday, November 11, 2022, in honor of Veterans Day.

#### **Synopsis of Proposed MTT Rules Changes Subject to Public Hearing**

As reported in the Tribunal's Newsletter, MTT 2022-11, the Department of Licensing and Regulatory Affairs will hold a public hearing to receive public comments on proposed changes to the Michigan Office of Administrative Hearings and Rules (MOAHR) Administrative Hearing Rules rule set on Wednesday, November 16, 2022, at 9:00 a.m. The public hearing will take place at the Ottawa Building, 611 W. Ottawa St., 2nd floor, Hearing Room B, Lansing, Michigan 48933.

The following, provided for your convenience, is a synopsis of some of the proposed rule changes as they pertain to the Michigan Tax Tribunal:

#### **Subpart A. General Provisions**

##### **Definitions:**

Added definitions for "costs," "default hearing," "MCL," "MCR," "mediation," "MRE," "personal identifying information," "pleading," "rebuttal evidence," "tribunal," and "valuation disclosure." (TTR 203)

##### **Fees/Costs:**

Provides a process for waiving fees. Establishes that no filing fee is required to request a fee waiver. (TTR 205)

Provides for the refund of fees that were not required to be paid when the accompanying document was filed. Establishes that no filing fee is required to request a refund. (TTR 205)

Removes time requirements for the filing of a bill of costs or a response. (TTR 209)

MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
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### Signatures:

Documents must be signed by the party, unless an attorney, or authorized representative has appeared. Then, the attorney or authorized representative must sign documents. (TTR 207(1))

“Signed” means a handwritten signature or an electronic signature which includes either a typewritten signature or a graphic representation of a written signature. (TTR 207(2))

A signature represents the certification that the signor has read the document, that it is well grounded in fact and law, with good faith arguments, and that it is not interposed for any improper purpose (TTR 207(3))

### **Subpart B. Matters Before Entire Tribunal**

#### Filing Fees:

Provides for the payment of fees within 14 days of email filing. (TTR 217)

Specifies that contiguous parcels must be located in a single assessing unit, for purposes of TTR 217. (TTR 217)

Provides that there is no filing fee for motions requesting a telephonic, video conference, or in-person prehearing conference or status conference. Further provides that there is no fee for motions requesting a video conference or in-person hearing. (TTR 217)

Establishes that there is no fee for filing a stipulation to participate in mediation. (TTR 217)

Removes the filing fee for “Assessor’s Stipulations,” certification of the record for appeal, and for copies of pleadings or other documents. (TTR 217)

#### Commencing a Case:

“Assessor’s Stipulations” are no longer permitted in the entire tribunal division. (TTR 249)

Provides that if a U.S. postal service postmark is absent or unreadable, the received date is the filing date. (TTR 219(5))

Establishes that motions, documents, and exhibits submitted by email are considered filed when the email is received by the tribunal. Further provides that a submission by email by 11:59 p.m. on a business day is considered filed on that business day. (TTR 219(4) & (5))

### Notices of No Action:

A Notice of No Action (NNA) will be issued in situations where a party failed to pay a required motion filing fee, failed to file a required proof of service of a motion or document other than a petition, or if a motion and brief and/or response and brief does not comply with the written motion practice requirements of TTR 225(5). (TTR 219(6) & (7))

### Pleadings:

A party may amend a petition or answer to correct typographical or transpositional errors *only* prior to the filing and exchange of prehearing statements without filing a motion to amend. If the amendment includes more than a typographical or transpositional error, an NNA will be issued. (TTR 221(1))

An amended petition must be filed with a motion to amend to add a prior or subsequent tax year. (TTR 221(3))

A petition must include the parcel number(s) being appealed, the property's address, the county, a statement regarding contiguity, if multiple parcels, and, if the property is personal property, the parcel number of the real property on which the personal property is located, and whether a personal property statement was filed (and, if so, the date filed). (TTR 227(3)(c)(i))

The notice giving rise to the appeal is no longer required to be submitted with the petition in property tax, special assessment, and non-property tax appeals. (TTR 277)

The resolution confirming the special assessment roll must be submitted with the answer in special assessment appeals. (TTR 229(4))

The final assessment or other order/decision must be submitted with the answer in non-property tax appeals. (TTR 229(5))

The answer must include the date the contested tax bill was mailed, in contested tax bill cases. (TTR 229(6))

### Motions:

Provides for the email submission of motions (other than motions to amend to add a subsequent tax year), documents, and exhibits. (TTR 219(4))

Requires that a motion for immediate consideration must include a statement verifying that the moving party has spoken (the prior rules required mere notification without actual contact) with all other parties regarding the filing of the motion. (TTR 225(4))

The combined length of any motion and brief or response and brief may not exceed 20 pages double-spaced with one-inch margins and 12-point type, exclusive of attachments and exhibits. (TTR 225(5))

#### Failure to Appear at Hearings:

A party who fails to appear at a hearing shall be placed in default. (TTR 231(2),(3))

A party who fails to appear at a prehearing conference or non-property scheduling conference shall be placed in default. (TTR 231(2),(3))

#### Withdrawal of Petition:

A request for costs is not a substantive reason to object to the withdrawal of case. (TTR 231(4))

#### Prehearing Conference:

Prehearing statements must be signed and on either the Tribunal's form or a form in substantial compliance. (TTR 247(2))

A prehearing conference will commence as a show cause hearing if a party fails to comply with a Tribunal scheduling order. (TTR 247(8))

#### Stipulations:

Provides that a stipulation can only be filed after the filing of a petition and answer. Further provides that the stipulation must address the issues over which the tribunal's authority is properly invoked. (TTR 249(1))

If the parties stipulate a case at hearing or by email, they must pay the fee within 14 days of the hearing date or at the time of submission, if the hearing is at the Tribunal. (TTR 249(2))

#### Subpoenas:

Establishes that a party may not serve a subpoena less than 3 business days before a scheduled deposition, unless ordered by the tribunal. (TTR 253(2))

A video conference hearing is considered to be held in Ingham County, for purposes of subpoena enforcement. (TTR 253(3))

## **Subpart C. Matters Before the Small Claims Division**

### Filing Fees:

There is no fee for a petition or motion appealing the denial of an exemption if the property had a Principal Residence Exemption of at least 50% at the time of the filing of the petition. (TTR 267(1))

Removes the fee for filing a petition appealing the denial of a disabled veteran's exemption. (TTR 267(2))

Provides for the payment of fees within 14 days of email filing. (TTR 267(3))

Specifies that contiguous parcels must be located in a single assessing unit, for purposes of TTR 267. (TTR 267(3)(a))

Provides that if motions & stipulations are filed by email the required fee must be paid within 14 days of the date of the emailed filing. (TTR 267(3))

Establishes that there is no fee for filing a request to be heard on file, by telephone, by video conference, or in-person. (TTR 267(3)(g))

Establishes there is no fee for filing a stipulation to participate in mediation. (TTR 267(3)(j))

Removes the filing fee for "Assessor's Stipulations," certification of record for appeal, and for copies of pleadings or other documents. (TTR 267)

### Inclusion of Subsequent Tax Year:

A subsequent tax year is automatically included in valuation and some exemption appeals as of April 1 of that tax year. (TTR 271)

### Hearing Method:

A request to be heard by telephone, by video conference, or in person must be filed at least 28 days prior to the hearing. (TTR 275)

### Commencement of Proceedings:

"Assessor's Stipulations" are no longer permitted in the small claims division. (TTR 284)

Petitioner is no longer required to submit the notice giving rise to the appeal in special assessment appeals. (TTR 277(3))

Petitioner is no longer required to serve evidence attached to or submitted with the petition on the opposing party or parties. (TTR 277)

Small Claims petition forms and answer forms must be used. We no longer accept written forms in substantial compliance with a Tribunal form. (TTR 277, 279)

#### Answers:

Respondent is no longer required to submit the notice giving rise to the appeal in valuation, exemption, or non-property tax appeals. (TTR 279(4))

The answer and any accompanying documents are no longer required to be served on the petitioner. (TTR 279)

The Tribunal will issue a Notice of Filing after an answer is filed and indicate the case is ready for the scheduling of a hearing. (TTR 279(6))

#### Stipulations:

Provides that a stipulation can only be filed after the filing of a petition and answer. Further provides that the stipulation must address the issues over which the tribunal's authority is properly invoked. (TTR 281(1))

If the parties stipulate a case at hearing or by email, they must pay the fee within 14 days of the hearing date or at the time of submission if the hearing is at the Tribunal. (TTR 281(2))

#### Evidence:

If evidence is excluded an explanation must be included in the decision. (TTR 287(1))

If rebuttal evidence is submitted less than 21 days prior to the date of the hearing, the submitting party must bring two copies of the evidence to the hearing or email the evidence to the Tribunal and the opposing party. (TTR 287(3))

### **Subpart D. Mediation**

#### Referral to Mediation:

Cases are referred to mediation by Tribunal order if: the parties have agreed to participate, the stipulation includes a mediator selection, it specifies the mediator has disclosed any potential bias, and it specifies that compensation and payment have been agreed upon. (TTR 293)

Process:

Tribunal will issue an Order Referring Case to Mediation with mediation deadline. (TTR 295(1))

Mediation is facilitative and conducted pursuant to MCL 2.411(C)(2). (TTR 295(2))

The mediator shall file a mediation status report with the Tribunal within 7 days of completion of mediation. (TTR 295(3))

If mediation is successful, the parties may file a stipulation pursuant to Tribunal rules. (TTR 295(4))

Mediators:

Mediators have no decision-making power to resolve a case. (TTR 297(1))

General civil mediators must file a mediation application, pay a \$50.00 filing fee, and be certified by the Tribunal. (TTR 297)

Mediators must have 5 years of state and local tax experience within the 7 immediately preceding years. (TTR 297(4)(a))

The Tribunal will maintain a list of certified mediators. (TTR 297(7))

A mediator removed from the list or whose application is rejected may file a motion for reconsideration that will be considered by the chair. (TTR 297(10))

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I trust that this information is useful. The Tribunal wishes the very best to our nation's veterans with gratitude for their service.

Sincerely,



Steven Bieda  
Michigan Tax Tribunal