LARA
LICENSING AND REGULATORY AFFAIRS

MICHIGAN TAX TRIBUNAL

Newsletter 2024-10

December 18, 2024

Holiday Office Closures

The Tribunal's office will be closed on Tuesday, December 24, Wednesday, December 25, Tuesday, December 31, 2024 and Wednesday, January 1, 2025.

Designated Delivery Service

MCL 205.735a(7) provides that a petition is considered filed on or before the statutory filing period if:

(a) the petition is postmarked by the US Postal Service on or before the expiration of the applicable time period,
(b) the petition is delivered in person on or before the expiration of the applicable time period, or
(c) the petition is given to a designated delivery service for delivery on or before the expiration of the applicable time period.

MCL 205.735a(11) provides that a "designated delivery service" means a delivery service provided by a trade or business that is designated by the Tribunal no later than December 31 in each calendar year. For the 2025 calendar year, the Tribunal designates DHL Express (DHL), Federal Express (FedEx), and United Parcel Service (UPS) as its designated delivery services.
Deliveries from these carriers must be addressed to:

Michigan Tax Tribunal
2nd Floor 2407 N. Grand River Ave.
Lansing, MI 48906

Recent Case Law of Interest

- *FCB Assoc LLC v City of Ann Arbor*, unpublished per curiam opinion of the Court of Appeals, issued August 29, 2024 (Docket No. 366685).

FCB Associates, LLC (Petitioner) appealed the Michigan Tax Tribunal's (MTT) final opinion and judgment that partially denied Petitioner's motion for summary disposition and partially granted the City of Ann Arbor's (Respondent) motion for summary disposition. The issue in this case was whether the subject property's taxable value should have been uncapped under MCL 211.27a.

Petitioner argued that the property's taxable value should have remained uncapped because the transfer of ownership was between spouses.

The subject property was owned by a "partnership." One partner, Rene, owned 51% of the partnership, while the other partner owned the remaining 49%. Eventually, Rene's wife, Dr. Papo, acquired ownership of the 49% previously owned by the other partner. When Rene passed away, Dr. Papo became the only remaining partner with Rene's 51% interest in the partnership ultimately being transferred to her. Through a warranty deed, the partnership conveyed the subject property to Petitioner. Petitioner filed a property transfer affidavit with Respondent, claiming the transfer was exempt from uncapping because the entities involved were under common control.

After receiving the property transfer affidavit, Respondent uncapped the property's taxable value. Petitioner disputed this decision and filed a petition with the MTT. The MTT held that Rene's death triggered a dissolution of the partnership and that the transfer of his 51% interest was a transfer of ownership under MCL 211.27a(6)(h). Petitioner appealed this decision to the Court of Appeals. In its decision, the Court looked at the Michigan Uniform Partnership Act (MCL 449.1 *et seq*.), which governs all partnerships in Michigan, including partnerships between spouses. The Court held that "[b]oth before and after the partnership's dissolution, the subject real property was the property of the partnership. It was not owned by Rene or Dr. Papo as individuals. See MCL 449.8(1)." The Court further held that under MCL 449.31(4), a partner's death can dissolve a partnership. Accordingly, "[t]he transfer of Rene's majority interest in the partnership to Dr. Papo upon the dissolution of the partnership was a 'transfer of ownership' as contemplated in MCL 211.27a(6)(h)." Furthermore, this transfer was the result of Rene's and Dr. Papo's relationship as partners, not spouses. The MTT's decision that the subject property's taxable value was properly uncapped was affirmed.