



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

MARLON I. BROWN, DPA
DIRECTOR

Northern Way Asatru Assembly,
Petitioner,

MICHIGAN TAX TRIBUNAL

v

MTT Docket Nos. 22-002312
& 23-003815

Corwith Township,
Respondent.

Presiding Judge
Patricia L. Halm

ORDER GRANTING RESPONDENT'S MOTION FOR SUMMARY DISPOSITION

FINAL OPINION AND JUDGMENT FOR TAX YEARS 2021 AND 2022

ORDER SEVERING TAX YEARS 2023 AND 2024 TO MTT DOCKET NO 23-003815

The Tribunal issued a proposed order granting Respondent's Motion for Summary Disposition, Proposed Opinion and Judgment (POJ), and Proposed Order Severing tax years 2023 and 2024 in the above-captioned docket on August 20, 2024. The POJ states, in pertinent part, "[t]he parties have 20 days from date of entry of this POJ to notify the Tribunal in writing, by mail or by electronic filing, if available, if they do not agree with the POJ and to state in writing why they do not agree with the POJ (i.e., exceptions)."

On September 9, 2024, Respondent filed exceptions to the POJ. In the exceptions, Respondent states that the POJ erred in not granting summary disposition fully under MCR 2.116(C)(10) and MCR 2.116(G)(4). Respondent contends that the POJ erred under MCR 2.116(G)(5) in failing to weigh the affidavit supporting the motion. Respondent contends that the 2023 and 2024 years should not be severed because, under MCL 205.737(5), jurisdiction over those years is tied to jurisdiction over the 2021 and 2022 years.

Petitioner has not filed a response to Respondent's exceptions.

On September 10, 2024, Petitioner filed exceptions to the POJ. In the exceptions, Petitioner states that evidence shows that Petitioner was a lessee with a purchase option on the tax days at issue and that the purchase option was exercised. Petitioner cites the definition of owner under MCL 211.7dd(a). Petitioner contends that the facts support its ownership, possession, and use as of the tax days. Petitioner also states that the filing was delayed by a day due to an error in the Tribunal e-filing system.

On September 24, 2024, Respondent filed a response to Petitioner's exceptions. In the response, Respondent states that Petitioner's exceptions should not be considered

because they are not timely filed. Respondent also opposes the exceptions on other grounds.

The Tribunal has considered the exceptions, the response, and the case file and finds that it has no authority to consider Petitioner's exceptions. Exceptions to a POJ, if filed, must be filed within 20 days of the proposed order.¹ Petitioner contends, without supporting evidence, that the one-day delay in filing was due to an error in the Tribunal's e-filing system. The Tribunal recognizes that an upload error to the e-filing may occur for several reasons. However, such reasons do not constitute a sufficient reason for a delayed filing short of a system-wide outage. Only "[u]nsuccessful submissions through the tribunal's e-filing system due to a system-wide outage are considered timely if filed on the following business day."² There was no system-wide outage during the time period at issue, and other documents were uploaded to the Tribunal's e-filing system on September 9, 2024. The Tribunal has no equitable authority to modify a statutory deadline to consider Petitioner's untimely filing. Further, and without additional examination of the details of Petitioner's filing, the Tribunal finds the analysis in the POJ supporting the order of dismissal to be well-reasoned and supported by the facts of this appeal.

Further, the Tribunal finds that the Administrative Law Judge (ALJ) properly considered the testimony and evidence submitted in rendering the POJ and proposed order of severance. Respondent has not shown good cause to modify the POJ. Specifically, the Tribunal did not err in its failure to rely on MCR 2.116(G)(4). The Tribunal relies on the "if appropriate" language of that subrule in upholding the decision to sever 2023 and 2024. Further, the Tribunal does not find that court rule to control in this situation where there was a transfer of ownership in the 2022 tax year, resulting in a separate legal issue. Further, with respect to 2024, no assessment was issued or affirmed at the time the motion was filed, and it is unclear what actions were or were not taken by Respondent's 2023 March BOR. The Tribunal finds no error in the POJ's failure to give explicit weight to the affidavit in support of the motion under MCR 2.116(G)(5). Consideration of the cited affidavit would not alter the result determined by the POJ.

Severance of the 2023 and 2024 tax years, rather than dismissal, is appropriate because those tax years joined to the appeal during the period where the Tribunal had acquired jurisdiction over the appeal and before its determination that it had no jurisdiction over tax years 2021 and 2022. Dismissing tax years 2023 and 2024 would result in a due-process violation because Petitioner would be deprived of an opportunity to appeal those assessments in any form. In other words, the pendency of the appeal prohibited Respondent's 2023 or 2024 March BOR from hearing those appeals because the Tribunal's jurisdiction over those tax years was original and exclusive under MCL 205.731 and MCL 205.737(5), and the BORs could not have properly considered the merits of Petitioner's arguments at those times.

¹ MCL 205.762(2).

² TTR 219(4).

Given the above, the parties have not good cause to justify modifying the POJ or the order severing.³ As such, the Tribunal adopts the POJ as the Tribunal's final decision in this case.⁴ The Tribunal also incorporates by reference the Findings of Fact and Conclusions of Law contained in the POJ in this Final Opinion and Judgment. As a result:

IT IS ORDERED that Respondent's Motion for Summary Disposition is GRANTED.

IT IS FURTHER ORDERED that this appeal is DISMISSED with respect to tax years 2021 and 2022.

IT IS FURTHER ORDERED that tax years 2023 and 2024 are SEVERED to MTT Docket No. 23-003815.

IT IS FURTHER ORDERED that Petitioner shall file a petition pertaining to the 2023 and 2024 tax years within 21 days of entry of this Order.⁵ The petition shall note the docket number assigned by the Tribunal for the 2023 and 2024 tax years and, if filed utilizing the Tribunal's e-filing system, must be filed on the assigned 2024 docket number as a "Severed Petition."

IT IS FURTHER ORDERED that the officer charged with maintaining the assessment rolls for the tax years at issue shall correct or cause the assessment rolls to be corrected to reflect the property's exemption within 20 days of entry of this Final Opinion and Judgment, subject to the processes of equalization.⁶ To the extent that the final level of assessment for a given year has not yet been determined and published, the assessment rolls shall be corrected once the final level is published or becomes known.

IT IS FURTHER ORDERED that the officer charged with collecting or refunding the affected taxes shall collect taxes and any applicable interest or issue a refund within 28 days of entry of this Final Opinion and Judgment. If a refund is warranted, it shall include a proportionate share of any property tax administration fees paid and penalty and interest paid on delinquent taxes. The refund shall also separately indicate the amount of the taxes, fees, penalties, and interest being refunded. A sum determined by the Tribunal to have been unlawfully paid shall bear interest from the date of payment to the date of judgment, and the judgment shall bear interest to the date of its payment. A sum determined by the Tribunal to have been underpaid shall not bear interest for any time period prior to 28 days after the issuance of this Final Opinion and Judgment. Pursuant to MCL 205.737, interest shall accrue (i) after December 31, 2020, through June 30, 2022, at the rate of 4.25%, (ii) after June 30, 2022, through December 31, 2022, at the rate of 4.27%, (iii) after December 31, 2022, through June 30, 2023, at the

³ See MCL 205.762.

⁴ See MCL 205.726.

⁵ Alternatively, the petition may be downloaded from the Tribunal's website and mailed to the Tribunal via United States Postal Service at: Michigan Tax Tribunal, PO BOX 30232, Lansing, MI 48909. The petition may also be delivered to the Tribunal via overnight carrier (UPS, FedEx, or DHL) at: Michigan Tax Tribunal, 2nd Floor MTT, 2407 N. Grand River Avenue, Lansing, MI 48933.

⁶ See MCL 205.755.

rate of 5.65%, (iv) after June 30, 2023, through December 31, 2023, at the rate of 8.25%, (v) after December 31, 2023, through June 30, 2024, at the rate of 9.30%, and (vi) after June 30, 2024, through December 31, 2024, at the rate of 9.50%.

This Final Opinion and Judgment resolves all pending claims in this matter and closes this case.

APPEAL RIGHTS

If you disagree with the final decision in this case, you may file a motion for reconsideration with the Tribunal or a claim of appeal with the Michigan Court of Appeals.

A motion for reconsideration must be filed with the Tribunal with the required filing fee within 21 days from the date of entry of the final decision. Because the final decision closes the case, the motion cannot be filed through the Tribunal's web-based e-filing system; it must be filed by mail or personal service. The fee for the filing of such motions is \$50.00 in the Entire Tribunal and \$25.00 in the Small Claims Division, unless the Small Claims decision relates to the valuation of property and the property had a principal residence exemption of at least 50% at the time the petition was filed or the decision relates to the grant or denial of a poverty or disabled veterans exemption and, if so, there is no filing fee. You are required to serve a copy of the motion on the opposing party by mail or personal service or by email if the opposing party agrees to electronic service, and proof demonstrating that service must be submitted with the motion. Responses to motions for reconsideration are prohibited and there are no oral arguments unless otherwise ordered by the Tribunal.

Alternatively, you may file a claim of appeal with the Michigan Court of Appeals. If the claim is filed within 21 days of the entry of the final decision, it is an "appeal of right." If the claim is filed more than 21 days after the entry of the final decision, it is an "appeal by leave." A copy of the claim of appeal must be filed with the Tribunal to certify the record on appeal. There is no certification fee.

By Patricia L. Haem

Entered: October 22, 2024
bw/jcr

PROOF OF SERVICE

I certify that a copy of the foregoing was sent on the entry date indicated above to the parties or their attorneys or authorized representatives, if any, utilizing either the mailing or email addresses on file, as provide by those parties, attorneys, or authorized representatives.

By: Tribunal Clerk

