Michigan Court of Claims Gives Taxpayers Clarity on Appeals Prerequisite of Paying Uncontested Portion of Tax Assessment

Dec 08, 2023

Categories:

Blogs
Tax Law Defined™ Blog

Authors:

Mark F. Sommer
Daniel G. Mudd
Caroline N. Renner

As a prerequisite to the tax appeal process in Michigan, a taxpayer must pay the uncontested portion of an assessment. As straightforward as this may sound, numerous cases have hinged upon whether the taxpayer properly paid the uncontested portion of an assessment and what exactly it means for a portion of the tax to be uncontested. In many instances, taxpayers conceded some portion of the assessment and did not pay the proper amount prior to appealing the assessment, which leaves the court without subject matter jurisdiction. But two recent Michigan court cases finally shed light on what it means for a portion of the tax assessment to be uncontested.

In a recent case involving three taxpayers, *SunTel Services, Inc., SunTel Services LLC and CBTS Technology Solutions, LLC v. Michigan Department of Treasury* (Case No. 23-000062-MT), the Michigan Court of Claims clarified some of the ambiguity surrounding the "uncontested portion" of an assessment. In the *SunTel* case, the Michigan Department of Treasury performed an audit of the taxpayers and used a sampling methodology that the taxpayers disagreed with. The Treasury Department proposed substantial tax adjustments to the tax years at issue in the audit, taking the position that the taxpayers were required to charge and collect sales tax on the installation and labor charges for all transactions with Michigan customers. The taxpayers disagreed with these findings and claimed that no tax was due where goods were drop-shipped to a job site. The Treasury ultimately issued final assessments against the taxpayers that increased their taxable burden significantly.

Throughout the entire audit process that spanned several years, the taxpayers not only contested the underlying sampling methodology, but also adamantly contested the final assessments as a whole, and

2026 FBT Gibbons LLP. All rights reserved. ADVERTISING MATERIAL.

did not concede to *any* portion of the assessments, maintaining that there was no history of the taxpayers being subject to such taxes. They requested and presented their position at an informal conference, but ultimately the Treasury's final assessments were upheld. As a next step—and in the midst of relevant legislation[1] that was quickly making its way through the Michigan Legislature and that directly affected the tax assessments related to delivery and installation charges—the taxpayers filed a complaint with the Michigan Court of Claims disputing all of the proposed assessments.

Notably, prior to filing the complaint, the taxpayers did *not* make any payments toward the disputed assessments. Instead, the complaint clearly plead that throughout all stages of the audit, administrative and judicial appeal process, the taxpayers disputed all of the proposed assessments. Thus there were no uncontested assessments, and thus no pre-payment was required to bring the complaint pursuant to MCL 205.22, MCL 600.6401 and Michigan case law (e.g., *Heraud v. Michigan Dep't of Revenue*, 118 Mich. App. 65, 70; 324 N. W.2d 535, 537 (1982)). In response, and in lieu of an answer, the Treasury moved for summary disposition for lack of subject-matter jurisdiction on the basis that the taxpayers did not dispute certain transactions, and thus the taxpayers did not properly pay the uncontested portion of the assessment as required to bring forth the appeal. Therefore, the question before the Court of Claims was whether there was any uncontested portion of the assessment and what it means for something to be uncontested under Michigan law.

In its October 23, 2023 order denying the Treasury's motion for summary disposition, the court relied on a very recent opinion issued by the Michigan Court of Appeals, *Strata Oncology v. Department of Treasury*, __ NW2d __, 2023 WL 6164989 (2023) (Docket No. 362431), in which the appellate court examined just a month prior whether there was any uncontested portion of a tax assessment. In *Strata Oncology*, after the Treasury moved for summary disposition, the taxpayers acknowledged that there were certain items within the assessment that were not eligible for a tax exemption. Previously, the Michigan Tax Tribunal only considered whether the taxpayer conceded any taxable amount due at the

2026 FBT Gibbons LLP. All rights reserved. ADVERTISING MATERIAL.

time of the pleadings, rather than any facts that came out through discovery. Regardless of anything that the taxpayer provided in discovery, the taxpayer alleged in the petition that they contested the entire tax assessment. Importantly, there was no allegation that the taxpayers fraudulently alleged that there was no uncontested portion of the assessment. The Court of Appeals found that the Tax Tribunal's consideration of the pleadings alone was correct, upholding the Tax Tribunal's decision that it had subject-matter jurisdiction over the appeal.

In *SunTel*, the Court of Claims applied the holding of *Strata Oncology* and examined only the taxpayers' complaint to determine whether there was any uncontested portion of the tax assessments. Because the taxpayers' petition clearly provided that they were contesting all proposed tax assessments, there was no uncontested portion of the tax that had to be paid prior to the appeal.

These are important rulings for Michigan taxpayers because it is now established that courts should look only to the pleadings to determine whether there is any uncontested portion of the tax. Provided that the pleadings are true and accurate, if a taxpayer clearly sets forth that there is no uncontested portion of an assessment, the court should not look beyond the pleadings. These cases are not only critical to provide clarity for taxpayers in the Michigan tax appeals process, but also to confirm that Michigan is not a "pay-to-play" state when a taxpayer genuinely disputes all remaining proposed tax assessments. For more information concerning the tax implications of these cases, please contact the articles' authors, who represented the taxpayers in *SunTel*. You can also visit our Tax Law Defined® Blog for more insight into the latest developments in federal, state, and local tax planning and tax administration.

---

[1] More specifically, on April 26, 2023, the Michigan legislature passed House Bill 4039, now Public Act 20 of 2023, which significantly altered the taxation of delivery and installation charges in the state of Michigan by creating a new exemption to the definition of "sales price" for delivery and installation charges if separately stated on the invoice and if the seller maintains its books

2026 FBT Gibbons LLP. All rights reserved. ADVERTISING MATERIAL.

and records to show separate transactions. Public Act 20 took effect immediately and required the Michigan Department of Treasury to cancel all outstanding balances related to such delivery and installation charges on previously issued notices of intent to assess within ninety days. Public Act 20 impacts both current and future tax obligations and tax appeals.

© 2026 FBT Gibbons LLP. May be considered attorney advertising in some jurisdictions.

2026 FBT Gibbons LLP. All rights reserved. ADVERTISING MATERIAL.

FBT Gibbons