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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
LANSING

KEITH W. COOLEY
DIRECTOR

December 20, 2007

Dear Tax Tribunal Practitioner,

The Tribunal's members and staff would like to take this opportunity to extend our best wishes for the holidays and the New Year.

In keeping with these good tidings, the Tribunal is pleased to announce the appointment of Patricia L. Halm as the Tribunal's new Chair. Judge Halm replaces Jack Van Coevering who has left the Tribunal to take a position with Varnum Riddering Schmidt Howlett LLP in Grand Rapids, Michigan. The Tribunal extends its sincere gratitude to Judge Van Coevering for his dedication and hard work and we wish him the very best in his new endeavor.

We are issuing today four new *Tribunal Notices*. Tribunal Notice 2007-4 addresses the granting of extensions for the filing and exchange of valuation disclosures in cases in which the Tribunal has sent to the parties a proposed scheduling order for completion and return. Tribunal Notice 2007-5 discusses the processing of proposed scheduling orders and the extension of dates proposed by the parties in such orders. Tribunal Notice 2007-6 names the delivery services designated by the Tribunal for the filing of appeals during the 2008 tax year. Tribunal Notice 2007-7 amends Tribunal Notice 2005-7 by eliminating the requirement for oral argument on motions to compel and motions to place a party in default. Copies of the notices are attached for your convenience. The notices are also available on our website.

Finally, questions have arisen regarding stipulations filed in cases involving Enbridge Energy, LP, and, in particular, MTT Docket No. 301679 (*Enbridge Energy, LP v Wakeshma Township*). The Tribunal finds that a review of this case and the stipulations filed in other Enbridge Energy cases in this Listserve to be the most efficient way to publicly respond to these questions and address what the Tribunal considers to be the misleading nature of the stipulations:

- Pursuant to a motion filed by Enbridge Energy in MTT Docket No. 301679 (*Enbridge Energy, LP v Wakeshma Township*), the Tribunal entered an Order placing approximately 190 Enbridge Energy cases in abeyance and designating MTT Docket No. 301679 as the "lead" case for the resolution of the common issues of fact and law presented in these appeals.
- Rather than litigate this case to resolve the common issues of fact and law, the parties filed a stipulation for entry of consent judgment on June 25, 2007. The stipulation was accepted by the Tribunal and a Consent Judgment was entered on July 6, 2007.
- In addition to proposing revised true cash and taxable values, the stipulation provides, in pertinent part:

- “After an extensive discovery and litigation process, the parties have agreed that the income method is the appropriate approach for valuing the subject property.”
- “The parties agree that Table K for reporting fluid pipeline assets did not yield true cash value for the subject property.”
- All subsequent stipulations filed in these cases contain identical language. Additionally, these stipulations provide, in pertinent part:
 - “The parties to this case agree to settle on the same terms and basis as the test case, *Enbridge Energy, Limited Partnership v Wakeshma Twp*, MTT Docket No. 301679, that settled on June 25, 2007 for which a consent judgment was entered on July 6, 2007.”
- While MTT Docket No. 301679 was originally designated as a “lead case,” this case was settled and, in fact, *not* litigated; the parties submitted no testimony or evidence to the Tribunal. Moreover, the common issues of fact and law were not presented to the Tribunal for resolution. The parties’ agreement as to Table K is merely that, the parties’ agreement, and not a finding made by the Tribunal. Similarly, the parties’ explanation of the income method used in MTT Docket No. 301679 has not been presented to the Tribunal and is not binding. For these reasons, the Tribunal has no alternative but to find that MTT Docket No. 301679 does not meet the criteria for a lead or test case and that the stipulation entered in MTT Docket No. 301679 has no precedential value.

Because the Tribunal finds the stipulations’ above-noted statements to be misleading in nature, respondents in cases in which stipulations were filed after the entry of the Consent Judgment in MTT Docket No. 301679 may be entitled to relief under MCR 2.612.

If you have members, colleagues or acquaintances that would benefit from keeping up-to-date with Tribunal developments, simply send an e-mail message to Marijo Wakley at wakleym1@michigan.gov with “SUBSCRIBE” in the subject line. To unsubscribe, simply reply to this e-mail with the word “UNSUBSCRIBE” in the subject line.