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## Personal Property Classification Appeal Update

With enactment of the Michigan Business Tax (MBT), favorable treatment was afforded industrial and commercial personal property. Generally, the property tax rate for commercial personal property was reduced by 12 mills and the rate on industrial personal property was reduced by 24 mills. In addition, the reduced property tax paid on industrial personal property became eligible for a 35% MBT credit.

Local assessors establish the classification of property each year. Taxpayers can appeal that classification. In addition, the Department of Treasury (the Department) can appeal a classification to the Tax Tribunal (Tribunal). For 2009, the Department filed more than 10,000 appeals. A few months ago, the Department announced it was planning to file another 10,000 appeals for 2010. Most of the Department filed appeals involving real and personal property parcels, classified as industrial, which the Department claims should be classified as commercial.

Late in 2010, the Tribunal began to hear the Department filed 2009 appeals. In several of the first cases heard, Honigman obtained rulings from the bench in favor of the taxpayer. Almost immediately thereafter, the Department announced its decision to withdraw the Tribunal pending appeals. Depending on the facts of the particular case, however, it may be preferable for a taxpayer to get a Tribunal decision rather than concur with a withdrawal.

## Tax Tribunal Accelerates Prehearing General Call

One of the greatest frustrations for property taxpayers seeking relief has been the length of time it takes to resolve Tribunal cases. Over the course of the past few years, several factors (Tribunal vacancies, a cumbersome scheduling process, increased number of appeals, etc.) have led to a significant case backlog. Recently, the Tribunal has made very positive changes, including returning to a prehearing general call system, that are leading to a reduced backlog and faster disposition of cases.

The most recent general call announcement involves cases filed in 2009 with valuation disclosures due in October 2011. The Tribunal expects all 2009 cases to be scheduled for prehearing by early to mid-2012. At that point, the Tribunal will begin scheduling prehearings for cases filed in 2010.

## Manufacturer/Installers Being Targeted For Use Tax

The Department has begun auditing and assessing manufacturers located in Michigan who sell and install products outside of the state. The Department has developed a new theory that sales of products manufactured in Michigan are subject to Michigan use tax, even if made to an out-of-state customer for installation at an out-of-state location. Honigman is actively involved in this controversy on behalf of Michigan manufacturers.

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