

For-Profit Schools Ruled Exempt From Michigan Personal Property Tax

May 5, 2017

In a departure from past interpretation, the Michigan Supreme Court issued a ruling on May 1, 2017 expanding the use of personal property tax exemptions available to for-profit institutions. In ***SBC Health Midwest, Inc. v City of Kentwood***, the court held that Sanford-Brown College of Grand Rapids could qualify for Michigan personal property tax exemptions as an “educational institution,” despite its lack of non-profit status. This decision could result in expanded personal property tax exemptions and refunds for educational institutions in Michigan that could not previously claim exemption(s).

The court found that non-profit status was not an essential requirement for exemption of personal property of an “educational institution” under **Section 9(1)(a) of the General Property Tax Act**.

This holding upholds the appellate court’s reversal of the Michigan Tax Tribunal, which found that the inclusion of the word “non-profit” in the statute permitting a separate exemption for both real and personal property of educational institutions meant that only non-profit educational institutions were qualified to use both exemptions. Instead, the court found that the statute simply provides “two paths” for the exemption of an educational institution, one which applies to both real and personal property of a non-profit educational institution, and a separate one which applies only to personal property but includes all educational institutions.

What is an “Educational Institution”?

An essential element of the section remains that the entity seeking to use it be an “educational institution.” In this case, the court remanded the case back to the Tribunal for a determination of whether Sanford-Brown College, Grand Rapids, in fact, meets the criterion to qualify as an “educational institution.” Prior cases have held that to qualify, an institution must fit into “the general scheme of education provided by the state and supported by public taxation.”

Therefore, it appears that a private K-12 primary school or a degree-conferring college operating for profit would likely qualify for the exemption. What is less clear is whether other educational organizations such as technical or trade schools, supplemental educational service providers, learning centers, or even specialized education providers like dance schools, cooking schools, or flight schools can qualify for the exemption. Many subjects like vocational and specialized training are offered by publicly supported institutions, but may or may not be considered part of the “general scheme” of state-supported education.

Potential for Refunds

Organizations that did not previously claim this exemption may be able to re-file and apply it now. A mechanism exists to correct previous personal property tax returns filed for the current year and two prior years through the Michigan State Tax Commission, and that provision could be applied to organizations that did not previously claim the exemption. Other mechanisms exist for correction of a clerical error or mutual mistake of fact, but it is unclear from this case whether the failure to claim an exemption because of the mutual belief that it only applied to non-profit organizations would be considered a mistake of fact.

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Application to Other Sectors

Though not specifically addressed by the opinion, there is a potential that this decision could be expanded to support personal property exemptions for other for-profit entities under a companion exemption for "scientific institutions," such as life sciences or high-tech industries.

If you have any questions about the court's opinion, the issues discussed in this alert or any other questions, please contact the authors of this alert or any of your Miller Canfield attorneys.

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