

State Tax Commission's Property Classification Decisions Subject to Circuit Court Review

May 25, 2011

In a unanimous decision issued May 23, 2011, the Michigan Supreme Court reversed the Michigan Court of Appeals' decision in *Midland Cogeneration Venture, LP, et al v State Tax Commission*, 286 Mich App 616; 780 NW2d 923 (2009), which had held that property owners do not have a right to appeal a decision by the State Tax Commission regarding property classification. The Michigan Supreme Court declared unconstitutional the last sentence of MCL 211.34c(6) which states: "An appeal may not be taken from the decision of the state tax commission regarding classification complaint petitions and the state tax commission's determination is final and binding for the year of the petition." The Supreme Court determined that property owners may appeal classification decisions by the State Tax Commission to a circuit court.

The distinction between commercial and industrial property in Michigan became significant with the passage of the Michigan Business Tax in 2007, effective beginning January 1, 2008. Under the MBT, owners of industrial personal property qualified for a refundable credit equal to 35% of the property tax paid. This credit sunsets with the repeal of the MBT as the new Michigan Corporate Income Tax, signed into law by Governor Snyder last week, does not provide for an industrial personal property tax credit. However, the distinction remains important, since industrial personal property is exempt from up to 18-mills of local school tax and 6-mills of State Education Tax, up to 24-mills total, compared to commercial personal property, which is not eligible for the MBT refundable credit and is exempt from 12-mills of local school tax.

If you have questions regarding this article, please contact a Miller Canfield State and Local Tax attorney.