

COA Opinion: Tax tribunal correctly held that a taxpayer's appeal of a final assessment was untimely

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In *PIC Maintenance, Inc v Dept of Treasury*, No. 298358, the Court of Appeals addressed whether a taxpayer's appeal was timely and whether the tax tribunal had authority to issue a stay of collection proceedings. The Court held that despite the taxpayer's claims that it did not receive the final assessment, the taxpayer's appeal was untimely because the department of treasury produced competent evidence that it mailed the final assessments via certified mail in accordance with the statutory notice requirements of MCL 205.28. This claim arose after the Unemployment Insurance Agency (UIA) issued a decision that several people on the taxpayer's payroll qualified as "employees" rather than "private contractors." The taxpayer appealed this determination, and the appeal is still pending. Based on the UIA's determination, the Department of Treasury issued a final assessment for unpaid employee withholding taxes for several years. The taxpayer claimed that it did not receive the final assessments and argued that the time for appeal should not have started running until it received a demand letter. The Court of Appeals rejected the taxpayer's argument, and reasoned that even if the taxpayer did not receive the final assessments, the tax tribunal did not err because the statute does not require the taxpayer to receive the notice. Rather, the statute only requires that the Department of Treasury send the notice in compliance with the statute.

Additionally, the taxpayer asked for a stay on all collection activities until the appeal of the UIA's determination was concluded. The tax tribunal held that it did not have authority to issue the stay because MCL 205.28(1)(b) prohibits stays of proceedings for the collection of a tax. The Court of Appeals found that MCL 205.28(1)(b) specifically applied and affirmed the tax tribunal.