

STATE OF MICHIGAN
MICHIGAN TAX TRIBUNAL

Roger and Jean Muldavin)	
Petitioners,)	MTT Docket Numbers.
)	167573, 167590, 167591
vs.)	
)	
Michigan Department of Treasury,)	
Respondent)	

Roger and Jean Muldavin, in person;
4767 Frederick Road, Arcadia, Michigan 49613 (616) 889-5943

Steven D. Hughey (P 32203); Russel E. Prins (P19110)
Assistant Attorneys General, Attorneys for Respondent
First Floor, Treasury Building, Lansing, Michigan 48922 (517) 373-3203

PETITIONERS' Amended Pretrial Statements Concerning Timeliness

[1] Petitioner-Husband (P-H) is guided by Rule 1247 in their effort to address "Timeliness" in the context of the above three Docket Number cases (see enclosed copy of the rule).

[2] P-H also includes copies of some four prints, 17-4 though 17-9, from "Michigan Appellate Handbook, Second Edition" by Nancy L. Bosh, The Institute of Continuing Legal Education, Ann Arbor, Michigan, 48109-1444 (1992) which PH purchased for P-H&W's Petition that they filed circa 1992 with the Tribunal.

[3] P-H found only two cases seemingly relevant at this time, one in the US Supreme Court, and only one for Michigan: respectively, Commissioner Internal Revenue v. Estate Bedford Et Al., 65 S. Ct. 1154, 325 U.S. 283 (U.S. 05/21/1945) Justice Franfurter on "entry of judgment"; and [U] Burton Industries, Inc., Plaintiff-Appellee, v. Atlas Technology, Inc., Defendant-Appellant No. 259052 (Mich.App. 05/11/2006).

[4] P-H submits copies of the certified mailing receipts and green return cards showing P-H mailed Petitions' papers "NOV 15 2007" and Green Card stamped with name of "Jeremy Hall", "NOV 19 2007", this may indicate four days, however a closer estimate might have to include "time-of-day" (?)

[5] P-H did get three letters from Tribunal Clerk dated "12/03/2007", mailed stamped "DEC 4 2007" for each respective Docket Number, stating that P-H forgot the "\$25" filing fee and had "... within 21 days to cure the defect".

[6] P-H's was mailed with receipt dated "DEC 7 2007" and Green Card return dated "DEC 10 2007", a three day difference.

[7] P-H has no recollection nor evidence of when P-H received the mails from the Tribunal. Thus the 14 day or and 21 day rules are significantly uncertain. Further, the purpose of the strict holding to the "timeliness" seems unclear, and P-H will continue to "Brief" the matter, as P-H has done for the "substance of accounting" for the U.S. Tax Court in some depth.

[8] P-H has located their 26 OCT 1992 PREHEARING STATEMENT and pastes "1. F.F." here:

{{F. Amount in Controversy:

	#167573	#167590	#167591
	E778877 and E517499	Severance	In Lieu of
(88/89)	(76-88)	(76-88)	
(1) Tax	11,439/12,078	100,915.00	35,000.00
(2) interest			

(3) penalty}}

[9] The “Michigan Appellate Handbook” 2nd Edition (MAH2d) by Nancy L. Bosh, pp 17-7, “C. Exhaustion of Administrative Remedies [par.] 17.12, states this:

{Failure to exhaust administrative remedies prior to seeking judicial review may be exercised where (1) a controlling constitutional issue is raised, (2) the agency’s jurisdiction to consider the subject matter is challenged, (3) it is obvious that exhaustion would be in vain or useless, or (4) review of the agency’s final decision would not provide an adequate remedy and would run counter to the policies underlying the exhaustion doctrine.[cites omitted].}}

[10] P-H&W are one of a people raising issues before Michigan Courts:

Brown v. Shell Oil Company 128 Mich App 111 (16 Aug 1983)
Muldavin v. Department of Treasury, 184 Mich App 222 (23 Feb 90)

[11] P-H&W concludes that to this date the Docket Number 167591 [in Lieu of, (76-88), 35,000.00] the Respondent as addressed, but not completely.

[12] [See Revenue Administrative Bulletin 2001-5, Approved: November 15, 2001, Individual Income Tax – Severance Tax Paid in Lieu of Other Taxes, RAB 2001-5].

[13] Provided P-H&W’s other challenges have been considered, which Respondent has not done, perhaps due to the lack of conclusive results of current “informal” negotiations connected with US Tax Court cases with US DOT-IRS.

[14] P-H&W concludes that Docket Number 167590 [Severance (76-88), 100,915.00] has not been addressed as the US DOT-IRS has by allowing 100% Depletion allowances on Individual Income Tax Forums from circa 1991 through 1998 – this last year of filing, since PH had no accountings from Shell.

[15] P-H&W concludes that Docket Number 167573 [E778877 and E517499, (88/89) 11, 439/12,078] since current informal negotiations with US DOT-IRS will show that 1988 and 1989 Income tax Deficiencies have been dropped and that MichDOT has not been informed by USDOT-IRS. Is this an “Abeyance”?

[16] P-H&W have been unable to get any of the Other Parties to fully account for what properties of P-H&W’s Bear Lake, Manistee County, Oil and Gas Lease, these Docket Numbered Cases concern, other than some information from the Supervisor Of Well’s Office, after the US DOT- IRS seized P-H&W’s Royalty payments circa 1991, and subsequently to later 1990’s, no monthly statements of the seized Royalty payments were given, then for the last two years or so, only yearly statements, incomplete, and divided between Shell Oil and its assignees, and now currently, no traceable accountings.

[17] P-H&W might consider the “In Lieu of ...” Docket being separated, however, P-H&W would have to include “... all other taxes” that include all property taxes in the State of Michigan, a technically but accurate since the origin of the gas and oil is considered to be the North Pole sea [caused by the accumulation of water at the North Magnetic Poles, circa 350 Millions years ago and migrating oil and gas from a vast region (Continental and Mantle Sea Beds) which would comply with the “migrating natural resources” doctrines.] This is half-truth and half-humor, thus has a fair chance of being considered.

[18] Summary. Due to the short times given, 14 to 21 days to reply minus the US Post Office delivery times [evidence a week] and P-H&W’s less than the Rural Speed of Light to acquire the Notices, P-H hopes to mail this Saturday, 07 MAR 2008.

[19] P-H has organized his files and finds a possible ... no, a probable reason for both Petitioner-H&W and Respondent not responding Item [19b] below as stated on page 2, par. 2 of the “Entered FEB 25 2008” three docket numbers above “Order Denying Petitioners’ Motion for Consideration” as follows [to fit end of page]:

[a] “Entered: JAN 12 2006” “Order Granting Petitioner’s Motion to Extend Time to Exchange and File Valuations Disclosures” [PH has included a copy and hopes to create an Index of Documents on a speed-sheet, if time permits.

[b] “Entered: 01/19/2006”, “Notice of October 2006 Pre-hearing General Call and Order of Procedures” and the Order lists the three above docket numbers in the order “Case # “ designated as 1, 2, 3.

[c] “Entered: APR-03-2007”, “Order of Default, Order of Adjournment”

*** “IT IS ORDERED that the Respondent(s) shall be placed in DEFAULT.”

[d] “Signed this 23rd day of April 2007 “Under Penalty of Perjury” [Petitioners’] “Motion to Set Aside [R’s] Default” which was to guard against P-H’s confusion, that the item [19b above] might also dismiss P-H&W’s Petitions.

[e] “Entered: 07/13/2007” MTT’s “Order Granting Motion to Set Aside Order of Default”: “In this cause, Respondent [underline P-H’s] having filed a Motion to Set Aside Order of Default, and due consideration having been had by the Tribunal, IT IS ORDERED that the Motion to Set Aside Default be and is hereby GRANTED.” [P-H notes envelope USP stamp “JUL 13 2007” but USP cancel reads: {{*** 07/16/07 Lansing MI 488 ***}}, adds to maybe a week(?)

[Comments by P-H: Petitioner Husband has no recollection nor documents that Respondent(s) filed a “Motion to Set Aside Default”. Add to this possible week delays in deliveries to P-H Post Office Box in Arcadia], MI 49613, therefore the Tribunal should ORDER: (A) Petitioners’ and Respondents to engage Informal Negotiations and (B) to each file “Status Report(s)” as “Entered: March 16, 2005”.]

Signed this ____ day of March, 2008 under penalty of perjury as true to the best of their knowledge, belief, and information:

and

Roger Muldavin
4767 Frederick Road, Arcadia, MI 49613

Jean Muldavin

(231-889-5943)