

STATE OF MICHIGAN
COURT OF APPEALS

MCI TELECOMMUNICATIONS, MCI LEASING
CORPORATION, and MCI EQUIPMENT
CORPORATION,

UNPUBLISHED
July 15, 1997

Petitioners-Appellees and Cross-Appellants,

v

Nos. 188378,188482;
188483;
Michigan Tax Tribunal
LC Nos. 113034; 113033;
113032

DEPARTMENT OF TREASURY,

Respondent-Appellant and Cross-Appellee.

Before: Young, P.J., and Markey and D. A. Teeple*, JJ.

PER CURIAM.

Petitioners MCI Telecommunications, MCI Leasing Corporation, and MCI Equipment Corporation (MCI) petitioned the tax tribunal for a reduction in the use tax assessment of certain items of equipment on the basis that this property was “necessary exchange equipment” and so qualified for the exemption provided by §4(t) of the Use Tax Act, MCL 205.94(t); MSA 7.555(4)(t). The Tax Tribunal ultimately determined that certain items of equipment¹ at terminal locations were exempt under §4(t), and that the tax-exempt portion of that equipment corresponded to the taxable portion of MCI’s revenue during the relevant time periods.² Respondent Department of Treasury appeals from this determination. Petitioners cross-appeal, asserting that similar equipment located at its junction facilities should also have been exempt under §4(t). We affirm the Tax Tribunal’s decision.

I.

Respondent Department of Treasury asserts that the Tax Tribunal erred in its interpretation of the words “necessary exchange equipment” in §4(t). The Department argues that the exemption provided by §4(t) was meant to apply only to equipment used for local telephone exchange service, and so is not applicable to MCI, which provides only long-distance service. We disagree.

* Circuit judge, sitting on the Court of Appeals by assignment.

The Tax Tribunal did not err by determining that MCI's equipment at the terminal facility fell within the scope of §4(t). Review of the relevant statutory language does not show a legislative intent to limit the exemption to only "necessary exchange equipment" used to provide local telephone exchange service rather than intrastate long-distance service. The Department argues that only equipment used to provide taxable services listed under §3a of the Use Tax Act, MCL 205.93a(a); MSA 7.555(3a)(a), should be exempt under §4(t). Both local telephone exchange service and intrastate long-distance service are subject to Michigan's use tax. MCL 205.93a(a); MSA 7.555(3a)(a); *GTE Sprint v Dept of Treasury*, 179 Mich App 276, 285; 445 NW2d 476 (1989). Following the Department's own logic, MCI's "necessary exchange equipment" used to provide intrastate long-distance service would still be exempt under §4(t). This is exactly what the Tax Tribunal did when it exempted only that percentage of the equipment which corresponded to the taxable (i.e. intrastate) portion of MCI's revenue. We therefore defer to the Tax Tribunal's interpretation of §4(t) in this matter. *Maxitrol Co v Dept of Treasury*, 217 Mich App 366, 370; 551 NW2d 471 (1996).

II.

On cross-appeal, MCI argues that the Tax Tribunal erred by not finding its equipment at junction facilities also exempt under §4(t). MCI asserts that because the same types of equipment fell within the exemption at the terminal sites, it should be considered "necessary exchange equipment" at the junction sites as well. We disagree.

The Tax Tribunal essentially found that no switching functions were performed at MCI's junction facilities, so the property located at the junction sites was not "necessary exchange equipment" under §4(t). The Tax Tribunal adopted the definition that "exchange equipment" meant equipment used in switching functions. Although the property located at the junction sites can be used for switching, the evidence presented to the tribunal showed that the junction facilities did no switching, but instead boosted and forwarded the transmission of signals. The Tax Tribunal's factual findings are supported by competent, material, and substantial evidence on the entire record, and are conclusive. *Michigan Bell v Dept of Treasury*, 445 Mich 470, 476; 518 NW2d 808 (1994), cert den 513 US 1016; 115 S Ct 577; 130 L Ed 2d 492 (1994).

Affirmed.

/s/ Robert P. Young, Jr.

/s/ Jane E. Markey

/s/ Donald A. Teeple

¹ The Tax Tribunal found that the following equipment located at MCI's terminal facilities fell within §4(t): multiplex equipment, power equipment, fault alarm equipment, termination equipment, switch equipment, radio equipment, STC com 2 equipment, and antenna.

² December 1, 1979 - March 31, 1980, April 1, 1980 - March 31, 1981, April 1, 1981 - March 31, 1982, April 1, 1982 - March 31, 1983, and April 1, 1983 - December 31, 1983.