STATE OF MICHIGAN

COURT OF APPEALS

WALTER TOEBE CONSTRUCTION COMPANY, Petitioner-Appellant,	UNPUBLISHED July 27, 2010 APPROVED FOR PUBLICATION September 2, 2010 9:00 a.m.
v DEPARTMENT OF TREASURY, Respondent-Appellee.	No. 291764 Tax Tribunal LC No. 00-344354

Before: SHAPIRO, P.J., and SAAD and SERVITTO, JJ.

PER CURIAM.

Petitioner appeals as of right the order of the Tax Tribunal granting respondent's motion for summary disposition. We affirm.

Petitioner is a Michigan corporation engaged in the construction business. The local tax assessor classified a portion of petitioner's property commercial personal property for tax year 2006. The parties agree that the property in question should have been classified industrial personal property, and that the assessor simply erred in the classification.

In filing its 2006 single business tax return, petitioner claimed a tax credit of $17,810 for $118,731 it claimed to have paid on industrial personal property. Respondent sent a notice of adjustment, informing petitioner that it was disallowing the credit because petitioner had not attached any statement that the taxes had been levied and paid, or that the property was classified industrial personal property.

Petitioner, through its accountant, responded that it had paid property taxes on the property at issue, and that the property fit the definition of industrial personal property found in § 34c of the general property tax act[1] (GPTA).

[1] MCL 211.34c.

The hearing referee found, "Industrial personal property is defined by statute and not by an assessor." Because the property fit the definition in the GPTA, the referee recommended allowing the credit, despite the assessor's classification.

Respondent rejected the hearing referee's recommendation. It asserted that the definition in the GPTA was inapplicable, and that the appropriate definition was that found in the single business tax act[2] (SBTA). Countering petitioner's argument that the SBTA definition had simply imported the GPTA definition, respondent noted that the SBTA definition requires the property to be "classified industrial personal property" under the GPTA. Because the property in question had never been classified industrial personal property, according to respondent, it did not meet the SBTA definition, and petitioner was ineligible for the credit.

Petitioner petitioned the Tax Tribunal for a redetermination of the decision. The Tax Tribunal agreed with respondent's argument and affirmed its decision. Petitioner brings this appeal.

The sole issue on appeal is whether the Tax Tribunal erred in holding that the since-repealed SBTA definition of "industrial personal property" depends on the classification of the property by the tax assessor, or whether it only indicates that the SBTA has imported the definition of industrial personal property from the GPTA. We review questions of statutory interpretation and application de novo. *People v Stone Transp, Inc*, 241 Mich App 49, 50; 613 NW2d 737 (2000). Our goal in interpreting a statute is to give effect to the Legislature's intent. *People v Borchard-Ruhland*, 460 Mich 278, 284; 597 NW2d 1 (1999).

Many sections of the SBTA imported definitions from other statutes. For example, the SBTA defined a "United States corporation" with reference to section 7701(a)(3) and (4) of the internal revenue code,[3] by using the words "as those terms are defined in," not "classified as." Former MCL 208.3(1). Similarly, the act defined "Insurance company" with reference to section 106 of the insurance code of 1956,[4] again with the words "as defined in," not "classified as." Former MCL 208.5a. Throughout the act, "as defined in" or "as defined by" were the phrases used to denote an adoption of a statutory definition from another statute. See also, e.g., former MCL 208.9(3)(g)(iii); 208.9(7)(c)(ii); 208.10(4); 208.19(d); 208.31a(5)(d). Significantly, the word "classified" was never used for this purpose.

It follows, then, that if the Legislature, in drafting the SBTA, had wished to import the definition of "industrial personal property" from the GPTA, it would have chosen, as it did throughout the SBTA, to say, "'Industrial personal property' means that term as defined in section 34c of the general property tax act," or something similar. Instead, the Legislature chose to define "industrial personal property" as "personal property *classified* as industrial personal property *under* section 34c of the general property tax act." Former MCL 208.35d (emphasis

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[2] Former MCL 208.1 *et seq.*, repealed by 2006 PA 325, effective December 31, 2007.

[3] 26 USC 7701(a)(3) and (4).

[4] MCL 500.106

added). Section 34c of the GPTA contains not only a definition of "industrial personal property," but also imposes on assessors a duty to classify property under that section. MCL 211.34c. The most reasonable inference to be drawn from the Legislature's use of language is that it intended to allow respondent to rely on the assessor's classification of property under MCL 211.34c(1), and did not intend to require respondent to make an independent assessment of whether taxpayers' property met the definition in MCL 211.34c(3).

We are bound, in interpreting a statute, to give effect to the Legislature's intent. Because it is clear from reading the SBTA that the Legislature intended to make the definition of "industrial personal property" dependent on the assessor's classification, and because the property at issue in this case was never classified industrial personal property by the assessor, we affirm the decision of the Tax Tribunal disallowing the tax credit.

Petitioner argues that respondent's interpretation of the statute, which we adopt today, leads to an absurd result. The tax credit at issue required a taxpayer to "file within the time required the statement of personal property described in section 19 of the general property tax act.[5]" Former MCL 208.35d(3). Petitioner notes, correctly, that the deadline for filing the statement of personal property is February 20, MCL 211.19(2), but that the assessor does not classify the property until March, MCL 211.34c(1). Petitioner argues that it would therefore be impossible for a taxpayer to rely on the assessor's classification in making its statement of personal property, and therefore impossible to claim the tax credit. However, the statement of personal property described in MCL 211.19 does not require a taxpayer to know or assert how its personal property should be classified by the assessor. A taxpayer would then file its single business tax return four months after the close of its tax year. Former MCL 208.73(1). By this time, of course, the taxpayer would have had the classification of the property from the assessor, and there would be nothing impossible about claiming the tax credit. Further, if petitioner's argument were correct, the GPTA would be absurd regardless of the SBTA, because the GPTA requires the statement of personal property to precede the assessor's classification of property. But there is no absurdity or impossibility in requiring this, because the statement of personal property does not require knowledge of the assessor's classification.

Affirmed.

/s/ Douglas B. Shapiro
/s/ Henry William Saad
/s/ Deborah A. Servitto

[5] MCL 211.19.